

**BOARD OF CHOSEN FREEHOLDERS  
MORRIS COUNTY, NEW JERSEY**

Resolution No. \_\_\_\_\_

Adopted: March 2, 2015

**RESOLUTION OF THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF  
MORRIS CANCELLING \$25,700,000 OF COUNTY GUARANTY, AUTHORIZING  
SETTLEMENT OF VARIOUS LITIGATIONS, AND AUTHORIZING THE AMENDMENT OF  
PROGRAM DOCUMENTS, ALL IN CONNECTION WITH THE MORRIS COUNTY  
RENEWABLE ENERGY PROGRAM**

**WHEREAS**, the Morris County Improvement Authority (including any successors and assigns, the “*Authority*”) has been duly created by resolution duly adopted by the Board of Chosen Freeholders (the “*Board of Freeholders*”) of the County of Morris (the “*County*”) in the State of New Jersey (the “*State*”) as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the “*Act*”), and other applicable law;

**WHEREAS**, the Authority has developed a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

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

**WHEREAS**, pursuant to that certain guaranty ordinance finally adopted on May 11, 2011, as amended and supplemented, all in accordance with Section 37 of the Act (N.J.S.A. 40:37A-80) and other applicable law (the “*Guaranty Ordinance*”), the County authorized issuance of bonds in a not to exceed amount of \$60,000,000 to finance all costs in connection with the Renewable Energy Program;

**WHEREAS**, pursuant to that certain resolution number 11-31 entitled “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF MORRIS GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” adopted by the governing body of the Authority on July 20, 2011, as amended and supplemented from time to time in accordance with its terms, including by Certificate of an Authorized Officer of the Authority dated December 8, 2011 (collectively, and as the same may be further amended or supplemented in accordance with its terms, the “*Original Bond Resolution*”), the other “*Program Documents*” as defined in the Original Bond Resolution (the “*Original Program Documents*”), the Act, and other applicable law and official action, the Authority

issued its (i) "County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated December 8, 2011, in the aggregate principal amount of \$33,100,000 (the "*Series 2011A Bonds*") and its (ii) "County of Morris Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" dated March 15, 2012, in the aggregate principal amount of \$1,200,000 (the "*Series 2011B Note*", and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), which Series 2011B Note is held in its entirety by the County, to finance the Series 2011 Projects;

**WHEREAS**, certain capitalized terms herein not otherwise defined herein relating to the Series 2011 Bonds, for all purposes herein, shall have the meanings ascribed to such terms in the Prior Consents (as defined herein), and if not defined therein, in the hereinafter defined Consent No. 3, a form of which is attached hereto as Exhibit A;

**WHEREAS**, for certain purposes herein, including reference to the Prior Consents and Consent No. 3, (i) the Authority, the County and the Trustee are each a "*County Party*," and may be collectively referred to as the "*County Parties*", (ii) SunLight General Morris Solar, LLC (the "*Company*"), the Investment Company, the Holding Company, and SLG Capital (as such terms are defined in the hereinafter defined Consent No. 3) are each a "*Company Party*," and may be collectively referred to as the "*Company Parties*"; (iii) each of the County Parties and the Company Parties shall be considered Parties;

**WHEREAS**, the Company was selected by the Authority through a competitive process to develop the respective Renewable Energy Projects for the Series 2011 Local Units detailed in the Original Program Documents within the timeframe set forth in the Original Program Documents;

**WHEREAS**, the Company, in turn, prior to the issuance of the Series 2011 Bonds, entered into the engineering, procurement, and construction contract (the "*EPC Contract*") with Power Partners Mastec, LLC ("*Mastec*" or the "*EPC Contractor*"), for the EPC Contractor to construct the Renewable Energy Projects and undertake certain other functions set forth in the EPC Contract;

**WHEREAS**, the Company failed to cause the construction of all of the Renewable Energy Projects within the original timeframes contemplated by the Original Program Documents due to a series of disputes arising between the Company and the EPC Contractor under the EPC Contract (the "*EPC Contract Disputes*");

**WHEREAS**, in accordance with the terms of the EPC Contract, the Company and the EPC Contractor entered into a private, binding arbitration proceeding (as more particularly defined in the hereinafter defined Settlement Agreement, the "*Arbitration*") to resolve the EPC Contract Disputes, which Arbitration did not involve any County Party (in accordance with the terms of the EPC Contract), and the details and progression of which (other than occasional schedule updates provided by the Company) were not made available to the County Parties;

**WHEREAS**, in addition, the EPC Contractor filed certain liens on funds held by the Trustee preventing the Company from requisitioning the balance of the proceeds of the Series 2011 Bonds, which prevented the completion of the development of all of the Renewable Energy Projects, and which actions (among others) resulted in several presently ongoing federal and state court litigation proceedings as detailed in the Settlement Agreement (collectively, the "*Litigation*");

**WHEREAS**, the development timeframes were extended to allow for the Arbitration to conclude, and other related provisions of the Original Program Documents were amended, as set forth in that certain (i) "Amendment and Consent No. 1 (Morris County Renewable Energy Program, Series 2011)" dated as

of December 1, 2012 (“*Consent No. 1*”) by and among the Parties and the Series 2011 Local Units referenced and defined therein and (ii) “Amendment and Consent No. 2 (Morris County Renewable Energy Program, Series 2011)” dated as of October 1, 2013 (“*Consent No. 2*” and together with Consent No. 1, the “*Prior Consents*”) by and among the Parties referenced therein;

**WHEREAS**, the Prior Consents also amended the Original Bond Resolution (as so amended, the “*Prior Bond Resolution*”) and the other Program Documents (as so amended, the “*Prior Program Documents*”);

**WHEREAS**, on August 15, 2014, a panel of arbitrators issued Findings of Fact and entered Partial Final Arbitrators’ Awards in favor of the EPC Contractor against the Company in the amount of \$22,326,738 (the “*Arbitration Award*”), it being understood that such Arbitration Award was a private proceeding not involving, and not issued against, any County Party;

**WHEREAS**, on August 21, 2014, the Authority delivered to the Trustee that certain “Authority Notice Regarding Events of Defaults and other defaults” (the “*Authority Default Notice*”), dated August 21, 2014, which by its terms directed the Trustee to issue to the Company that certain “Trustee Notice Regarding Events of Default and other defaults” (the “*Trustee Default Notice*”), dated August 21, 2014;

**WHEREAS**, the Authority Default Notice, among other things, informed the Company of the Authority’s position that the Company: (i) had caused certain Events of Default under the Prior Program Documents; and (ii) was in default with respect to additional obligations pursuant to the Prior Program Documents, which if not timely cured, would accrue into additional Events of Default under the Program Documents (collectively, the “*Defaults*”);

**WHEREAS**, in order to resolve all of the Litigation, provide for a workable methodology to deal with the Defaults, allow the Authority and County to determine its best interests relating to the completion of the Renewable Energy Projects, and certain other considerations under the Prior Program Documents, the County has determined, through adoption of this resolution, to (i) enter into that certain “Settlement Agreement” by and among, including others, the Authority, the County, the Company, and the EPC Contractor (the “*Settlement Agreement*”), a form of which is attached hereto as Exhibit B, and (ii) further amend the Prior Program Documents (as amended, including by the hereinafter defined Consent No. 3, the “*Program Documents*”) through the authorization, execution and delivery of that certain “Amendment and Consent No. 3 (Morris County Renewable Energy Program, Series 2011)” (“*Consent No. 3*”, and together with the Prior Consents, the “*Consents*”; collectively, the Settlement Agreement and Consent No. 3 may be collectively referred to as the “*Settlement Documents*”), which Consent No. 3 may be acknowledged by certain Series 2011 Local Units referenced therein;

**WHEREAS**, pursuant to the Settlement Documents, among other things, (i) the EPC Contractor shall be paid for certain Costs of the Renewable Energy Projects as outlined therein from (A) a portion of the Project Fund held by the Trustee, (B) an amount to be funded by the Authority and/or the County through other available funds, and (C) such other sources as detailed in the Settlement Documents; and (ii) the Authority and the County may provide for certain other costs, including Administrative Expenses (collectively, the “*Settlement Project*”);

**WHEREAS**, litigations substantially similar to, and in some cases identical to, the Litigations have also arisen among affiliates of the Company, the EPC Contractor, the Somerset County Improvement Authority, Somerset County, Sussex County, and the Authority in connection with renewable energy programs being implemented in each of Somerset and Sussex Counties (the “*Somerset Litigations*” and the “*Sussex Litigations*,” respectively, and together with the Litigation, collectively the “*Tri-County Litigations*”);

**WHEREAS**, the County understands that the governing bodies of each of Somerset and Sussex Counties are scheduled to consider taking action with respect to settling the Somerset Litigations and the Sussex Litigations, respectively, upon terms substantially similar to the Settlement Project;

**WHEREAS**, in order to finance the Settlement Project, the County must appropriate funds from currently available sources;

**WHEREAS**, the Authority has issued \$34,300,000 (aggregate principal amount of the Series 2011 Bonds) of the \$60,000,000 of Authority bonds authorized for County guaranty under the Guaranty Ordinance, leaving guaranty capacity of \$25,700,000 (the “*Excess Guaranty Bonding Capacity*”), the County having determined through this resolution not to utilize such Excess Guaranty Bonding Capacity to complete construction of the Renewable Energy Projects;

**WHEREAS**, prior to execution of the Settlement Documents and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Settlement Project to the Morris County Board of Chosen Freeholders pursuant to Section 13, which report shall include, without limitation, descriptions of the Settlement Documents, and which report shall be accepted by the County by this resolution adopted by the Morris County Board of Chosen Freeholders pursuant to Section 13; and

**WHEREAS**, the authorization, execution, and delivery of the Settlement Documents, and all other actions contemplated herein, are in the best interests of the County.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS, NEW JERSEY (the “Morris County Board of Freeholders”) on behalf of the County**, as follows:

**Section 1.** The Excess Guaranty Bonding Capacity is hereby canceled and the Freeholder Director, the County Administrator and the County Chief Financial Officer (including their designees, each an “*Authorized Officer*”) are each hereby severally authorized and directed to take all actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable to cancel the Excess Guaranty Bonding Capacity.

**Section 2.** The Authorized Officers are each hereby severally authorized and directed to negotiate, execute and deliver the Consent No. 3 and the Settlement Agreement on behalf of the County, substantially in the forms attached hereto as Exhibit A and Exhibit B, respectively, with such changes to Consent No. 3 and the Settlement Agreement from the attached forms as any such Authorized Officer, in his or her sole discretion shall determine to be necessary, desirable or convenient to promote the best interests of the County, including any non-material changes requested by any rating agencies, and the Authorized Officer’s execution and delivery of Consent No. 3 and the Settlement Agreement shall be full and complete evidence of the authorization by the County of any such additions or changes to Consent No. 3 or the Settlement Agreement. The Authorized Officer is hereby further authorized to take all such further actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement Consent No. 3, the Settlement Agreement, the other Series 2015 Program Documents, and the transactions contemplated thereby.

**Section 3.** In accordance with, Section 13 and all other applicable law, having received a form of the Settlement Documents, the County hereby consents to the Authority’s: (i) execution,

delivery, and negotiation of Consent No. 3 and the Settlement Agreement, substantially in the forms attached hereto as Exhibit A and Exhibit B, respectively, with such changes to Consent No. 3 and the Settlement Agreement from the attached forms as directed by the Authorized Officers pursuant to Section 2 hereof, and in accordance with the form of Authority resolution attached hereto as Exhibit C; and (ii) taking of any and all actions deemed necessary, convenient, or desirable by the Authority to effectuate the foregoing, including but not limited to, execution of all such certificates, instruments or documents the Authority shall deem necessary, convenient or desirable for such purposes.

**Section 4.** The Clerk of the Board of Chosen Freeholders is hereby authorized and directed, upon the execution or acknowledgment of the Settlement Documents, in accordance with the terms herein, to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed to thereupon affix the seal of the County to such documents.

**Section 5.** The County hereby authorizes the performance of any act, and the execution or acknowledgment and delivery of any other document, instrument or certificates, which any Authorized Officer, after consultation with counsel, deems necessary, desirable or convenient to implement the Settlement Documents, and the transactions contemplated thereby, and the County hereby directs the Authorized Officers to execute or acknowledge, attest and affix the seal to any such documents, instruments or closing certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** All payments made by the County pursuant to the Settlement Agreement shall be deemed an appropriation of monies to the Authority to pay all or any part of the cost of acquisition or construction of a public facility pursuant to N.J.S.A. 40:37A-79.

**Section 7.** Except to the extent the Prior Program Documents are contemplated in the preambles hereof to be amended, and as supplemented by Consent No. 3, the Program Documents remain in full force and affect.

**Section 8.** All actions of the Authorized Officers, the Authority, and all consultants and counsel in the employ of the County or Authority in connection with the Renewable Energy Program taken prior to the date of adoption hereof in connection with the Settlement Documents or any of the foregoing transactions contemplated by this resolution are hereby ratified and approved as to the County, and acknowledged as to the Authority.

**Section 9.** The County hereby authorizes the undertaking of an independent review of the Renewable Energy Program. The commencement of the provisions of this Section 9 shall be effective upon the authorization, execution and delivery of the Settlement Documents by the applicable parties thereto.

**Section 10.** Upon the adoption hereof, the Clerk of the Board of Chosen Freeholders shall promptly forward certified copies of this resolution to John Bonanni, County Administrator and Authority Chairperson, Daniel W. O'Mullan, Esq., County Counsel, and Stephen B. Pearlman, Esq., Authority Counsel, all of which may be sent as a single certified copy to the offices of Authority Counsel, to the attention of Adam L. Peterson, Esq., at [APeterson@PearlmanMiranda.com](mailto:APeterson@PearlmanMiranda.com), followed by the original to Adam L. Peterson at Pearlman & Miranda, LLC, 2 Broad Street, Bloomfield, New Jersey, 07003.

**Section 11.** This resolution shall take effect on the date that the last of the governing bodies of the County, the Authority, Somerset County, the Somerset County Improvement Authority, and Sussex County approve settlement of the respective Tri-County Litigations.

I hereby certify the above to be a true copy of a resolution adopted by the Board of Chosen Freeholders of the County of Morris at a regular meeting held on March 2, 2015.

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Diane M. Ketchum, Clerk of the Board  
of Chosen Freeholders of the  
County of Morris

**Exhibit A**

**[Attach Form of Consent No. 3]**

**Exhibit B**

**[Attach Form of Settlement Agreement]**

**Exhibit C**  
**[Form of Authority Resolution Authorizing Settlement]**