

**RESOLUTION OF THE BOARD OF COMMISSIONERS
MORRIS COUNTY IMPROVEMENT AUTHORITY**

TITLE:

RESOLUTION AUTHORIZING THE FURTHER AMENDMENT OF THE CONSULTING CONTRACT WITH THE AUTHORITY'S CONSULTING ENERGY ENGINEER WITH RESPECT TO DELAY-RELATED COSTS INCURRED BY THE AUTHORITY IN CONNECTION WITH THE AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM

WHEREAS, The Morris County Improvement Authority (including any successors and assigns, the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Board of Freeholders*") of the County of Morris ("*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 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 program (the "*Morris 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, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, 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 "*Morris Renewable Energy Projects*") for and on behalf of Morris County and local governmental units within Morris 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 Morris County, the "*Morris Local Units*");

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State ("*Sussex County*") has also developed a renewable energy program through the Authority (the "*Sussex Renewable Energy Program*" and together with the Morris 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, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, 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 "*Sussex Renewable Energy Projects*" and together with the Morris Renewable Energy Projects, the

“*Renewable Energy Projects*”) for and on behalf of Sussex County and its affiliates, and the local governmental units within Sussex 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 Sussex County, the “*Sussex Local Units*” and together with the Morris Local Units, the “*Local Units*”);

WHEREAS, as of the date hereof, Sussex County has not created its own county improvement authority, and therefore pursuant to the Act, Sussex County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both Sussex County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, “*Section 11*”), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, for the reasons set forth therein, on November 30, 2009 the Authority adopted Resolution No. 09-51 (the “*Original 2010 Consulting Energy Engineer Authorizing Resolution*”), authorizing the execution of a Services Agreement (as defined in the Original 2010 Consulting Energy Engineer Authorizing Resolution, but defined herein as the “*Original 2010 Services Agreement*”) on a non-fair and open basis in accordance with N.J.S.A. 19:44A-20.4 *et seq.*, with the Consulting Energy Engineer (as defined in the Original 2010 Consulting Energy Engineer Authorizing Resolution) to perform Consulting Energy Engineering Services (as defined in the Original 2010 Consulting Energy Engineer Authorizing Resolution, but defined herein as the “*Original 2010 Consulting Energy Engineering Services*”) for the one year term set forth therein;

WHEREAS, the Authority (i) utilized the Consulting Energy Engineer as a construction manager (the “*Morris Series 2009A Construction Manager Services*”) in connection with the application of the primary portion of the proceeds of the Authority’s \$21,600,000 aggregate principal amount of “County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2009A” dated February 18, 2010 (the “*Morris Series 2009A Bonds*”), issued to finance tranche I of the Authority’s Renewable Energy Program (“*Morris Renewable Energy Program Tranche I*”), (ii) was and continues to be in need of a construction manager (the “*Morris Series 2011A Construction Manager Services*”, and together with the Morris Series 2009A Construction Manager Services, the “*Morris Construction Manager Services*”) in connection with the oversight of the application of the primary portion of the proceeds of the Authority’s \$33,100,000 aggregate principal amount of County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A [Federally Taxable] dated December 8, 2011 (the “*Morris Series 2011A Bonds*”), issued to finance tranche II of the Authority’s Renewable Energy Program (“*Morris Renewable Energy Program Tranche II*”), and (iii) was and continues to be in need of a construction manager (the “*Sussex Series 2011A Construction Manager Services*”, and together with the Morris Construction Manager Services, the “*Construction Manager Services*”) in connection with the oversight of the application of the primary portion of the proceeds of the Authority’s \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated December 15, 2011 (the “*Sussex Series 2011A Bonds*”), issued to finance the Sussex Renewable Energy Program;

WHEREAS, by Authority resolution no. 10-017 adopted April 20, 2010 and entitled “RESOLUTION AMENDING THE SCOPE OF SERVICES TO BE PROVIDED BY THE CONSULTING ENERGY ENGINEER IN CONNECTION WITH THE AUTHORITY’S RENEWABLE ENERGY PROGRAM” (the “*First Supplemental 2010 Consulting Energy Engineer Authorizing Resolution*”), the Authority authorized the amendment of the scope of the Original 2010 Consulting Energy Engineering Services to be performed by the Consulting Energy Engineer under the Original 2010 Services Agreement to include the Series 2009A Construction Manager Services (as so amended, the “*First Amended 2010 Consulting Energy Engineering Services*”);

WHEREAS, by Authority resolution no. 10-027 adopted June 16, 2010 and entitled “RESOLUTION AUTHORIZING THE FURTHER AMENDMENT OF THE CONSULTING CONTRACT WITH THE AUTHORITY’S CONSULTING ENERGY ENGINEER IN CONNECTION WITH THE AUTHORITY’S RENEWABLE ENERGY PROGRAM” (the “*Second Supplemental 2010 Consulting Energy Engineer Authorizing Resolution*” and together with the First Supplemental 2010 Consulting Energy Engineer Authorizing Resolution, the “*Supplemental 2010 Consulting Energy Engineer Authorizing Resolutions*”), the Authority further amended the Original 2010 Services Agreement (as so amended, the “*Amended 2010 Services Agreement*”) to reflect the proposed scope and pricing for the First Amended 2010 Consulting Energy Engineering Services to be performed by the Consulting Energy Engineer (as so amended, the “*Second Amended 2010 Consulting Energy Engineering Services*” and together with the First Amended 2010 Consulting Energy Engineer Services, the “*Prior Consulting Energy Engineer Services*”), all in accordance with the proposal of Gabel Associates dated, April 13, 2010 (the “*2010 Proposal*”), a copy of which was attached to the Second Supplemental 2010 Consulting Energy Engineer Authorizing Resolution;

WHEREAS, by Authority resolution no. 12-18, adopted June 19, 2012 and entitled “RESOLUTION AUTHORIZING THE FURTHER AMENDMENT OF THE CONSULTING CONTRACT WITH THE AUTHORITY’S CONSULTING ENERGY ENGINEER IN CONNECTION WITH THE AUTHORITY’S RENEWABLE ENERGY PROGRAM” (the “*Supplemental 2012 Consulting Energy Engineer Authorizing Resolution*”), the Authority further amended the Prior Services Agreement (as so amended, the “*Amended 2012 Services Agreement*” and together with the Amended 2010 Services Agreement and the Original 2010 Services Agreement, the “*Prior Services Agreement*”), to reflect the proposed scope and pricing for the Prior Consulting Energy Engineer Services to include the Construction Manager Services (the “*2012 Consulting Energy Engineering Services*” and together with the Prior Consulting Energy Engineering Services, the “*Consulting Energy Engineering Services*”) to be performed by the Consulting Energy Engineer in accordance with the proposal of Gabel Associates, dated May 21, 2012 (the “*2012 Proposal*”), to a maximum fee of \$220,000 for the Morris Renewable Energy Program and \$230,000 for the the Sussex Renewable Energy Program, a copy of which 2012 Proposal was attached to the Supplemental 2012 Consulting Energy Engineer Authorizing Resolution, all on a non-fair and open basis in accordance with N.J.S.A. 19:44A-20.4 *et seq.*;

WHEREAS, in connection with (i) Morris Renewable Energy Program Tranche II the Authority entered into that certain “Lease Purchase Agreement (Morris County Renewable

Energy Program, Series 2011)” dated as of December 1, 2011 (as amended, the “*Morris Company Lease*”) with SunLight General Morris Solar, LLC (“*SunLight Morris*”), and (ii) Sussex Renewable Energy Program the Authority entered into that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (as amended, the “*Sussex Company Lease*” and together with the Morris Company Lease, the “*Company Lease Agreements*”) with SunLight General Sussex Solar, LLC (“*SunLight Sussex*” and together with SunLight Morris, “*SunLight*”);

WHEREAS, in connection with (i) Morris Renewable Energy Program Tranche II, SunLight Morris entered into that certain “Turnkey Design, Engineering, Procurement and Construction Contract” dated December 6, 2011 (the “*Morris EPC Contract*”) with Power Partners MasTec, LLC (“*MasTec*”), and (ii) Sussex Renewable Energy Program, SunLight Sussex entered into that certain “Turnkey Design, Engineering, Procurement and Construction Contract” dated December 12, 2011 (the “*Sussex EPC Contract*”, and together with the Morris EPC Contract, the “*EPC Contracts*”) with MasTec;

WHEREAS, during the course of the planning, design, acquisition, construction, installation, testing, and commissioning of the solar photovoltaic Renewable Energy Projects in the Authority’s Renewable Energy Program, various delays have occurred, the details and causes of which are currently the subject of an arbitration proceeding between SunLight and MasTec, such that additional costs have been, and are anticipated to be, incurred by the Authority (the “*Consultant Costs*”);

WHEREAS, because the Renewable Energy Projects have not been completed within the originally anticipated one year time frame and because construction is anticipated to continue, a portion of the anticipated Consultant Costs consists of the cost of services provided by the Consulting Energy Engineer (the “*Construction Manager Delay-Related Costs*”);

WHEREAS, pursuant to Section 101 of the Company Lease Agreements, the Consultant Costs, including the Construction Manager Delay-Related Costs, incurred by the Authority are both Administrative Expenses and Additional Lease Payments, each as defined in the Company Lease Agreements; and

WHEREAS, the Authority desires to amend the Prior Services Agreement as specified herein (as so amended, the “*Amended 2013 Services Agreement*” and together with the Prior Services Agreement, the “*Services Agreement*”), specifically to incorporate the understanding that the provisions of the Company Lease Agreements require payment by SunLight of Administrative Expenses as Additional Lease Payments, and, as such, any Consultant Costs incurred by the Authority for services provided by the Consulting Energy Engineer either specifically for a delay-related service or in excess of the \$220,000 and \$230,000 maximum fees cited above for the respective County Renewable Energy Programs, shall be passed through to SunLight for payment (the “*Delay-Related Cost Amendment*”).

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Authority as follows:

Section 1. The Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an “*Authorized Officer*”) are each hereby severally authorized and directed to negotiate, execute and deliver the Amended 2013 Services Agreement with the Consulting Energy Engineer, which shall include the Delay-Related Cost Amendment, with such final form of the Services Agreement to be determined by the Authorized Officer, after consultation with counsel, to be in the best interests of the Authority, and such 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 the Services Agreement. The Services Agreement shall reflect all Consulting Energy Engineering Services performed to date, plus those to be performed, and shall be entered into in accordance with all rules and regulations involving a non-fair and open award in accordance with N.J.S.A. 19:44A-20.4 *et seq.*

Section 2. The Secretary and the Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on any such Services Agreement, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

Section 3. Following review by the Authority, invoices for payment for the Construction Manager Delay-Related Costs shall be forwarded to SunLight for payment as Additional Lease Payments by way of a Certificate of an Authorized Officer of the Authority in substantially the forms attached hereto as **Exhibit A**.

Section 4. All actions taken to date in connection with the Services Agreement by the Authority and the Authority’s counsel are hereby ratified, confirmed and approved.

[remainder of page intentionally left blank]

Section 5. This resolution shall take effect immediately.

MOVED/SECONDED:

Resolution moved by Commissioner _____.

Resolution seconded by Commissioner _____.

VOTE:

Commissioner	Yes	No	Abstain	Absent
Pinto				
Ramirez				
Roe				
Sandman				
Bonanni				

ATTESTATION:

This Resolution was acted upon at the Regular Meeting of the Authority held on April 17th at the Authority’s principal corporate office in Morristown, New Jersey.

Attested to this 17th day of April, 2013

By: _____

Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of April 17, 2013.

By: _____

**Stephen B. Pearlman, Esq.,
Counsel to the Authority**

EXHIBIT A

[Attach Form of Certificate of an Authorized Officer of the Authority]

CERTIFICATE OF THE AUTHORITY
AS TO ADMINISTRATIVE EXPENSES - SUSSEX

I, John Bonanni, Chairman of the Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing 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 (as codified at N.J.S.A. 40:37A-44 et seq., the “*Act*”) and other applicable law, and in connection with the issuance by the Authority of its \$27,700,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable)” consisting of (i) \$26,715,000 Series 2011A Bonds (the “*Series 2011A Bonds*”) and (ii) \$985,000 Series 2011B Note (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), issued on December 14, 2011, **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. Attached hereto as **Appendix A** are true and complete copies of Invoice No. [REDACTED] ([collectively,] the “*Invoice*”), submitted by Authority consultant [Inglesino, Pearlman, Wyciskala & Taylor, LLC / Gabel Associates Inc.] (the “*Consultant*”) in the amount of \$ [REDACTED] (the “*Consultant Costs*”).

2. The Consultant Costs are hereby approved and do constitute Administrative Expenses of the Authority as defined in (i) Section 101 of that certain “Lease Purchase Agreement Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*Company Lease*”) by and between the Authority and SunLight General Sussex Solar, LLC (the “*Company*”) and (ii) Section 1.01(3) of that certain “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” adopted September 28, 2011, as amended and supplemented by a Certificate of an Authorized Officer of the Authority dated December 14, 2011 (the “*Bond Resolution*”).

3. The Trustee, as defined in the Bond Resolution, is hereby authorized and directed to promptly invoice the Company for the Consultant Costs as an Additional Lease Payment under (i) Section 5.03(4)(b) of the Bond Resolution and (ii) Sections 301(a)(ii)(A) and 308(b) of the Company Lease, and, upon receipt and deposit within the Administrative Expense Account of such Additional Lease Payment, the Trustee is hereby authorized and directed to forward the full amount to the Consultant.

IN WITNESS WHEREOF, on behalf of the Authority, I have hereunto set my hand on behalf of the Authority on this [redacted] day of [redacted], 201[redacted].

**THE MORRIS COUNTY
IMPROVEMENT AUTHORITY**

By: _____
Name: John Bonanni
Title: Chairman

U.S. BANK, N.A.

I hereby certify, this [redacted] day of [redacted], 201[redacted], that the attached Invoice to this Certificate of an Authorized Officer of the Authority shall serve as an invoice to the Company for an Additional Lease Payment, as required by (i) Section 5.03(4)(a) of the Bond Resolution and (ii) Section 308(b) of the Company Lease.

By: _____
Name: Paul O'Brien
Title: Trustee

The receipt of this Certificate of an Authorized Officer of the Authority is hereby acknowledged by SUNLIGHT GENERAL SUSSEX SOLAR, LLC (the "Company") this [redacted] day of [redacted], 20[redacted]. The Company intends to pay this invoice out of a portion of the proceeds of the Series 2011 Bonds through the submission of draw papers, including the representations set forth in paragraph 4 thereof, in the form attached hereto as Appendix B.

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

By: _____
Name:
Title: Authorized Signatory

Appendix A
to the Certificate of the Authority
[Administrative Expenses – Invoice containing Consultant Costs]

Appendix B
to the Certificate of the Authority
[Form of Draw Papers – also Exhibit C to the Company Lease]

**CERTIFICATE OF THE AUTHORITY AS TO
ADMINISTRATIVE EXPENSES - MORRIS**

I, John Bonanni, Chairman of the Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing 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 (as codified at N.J.S.A. 40:37A-44 et seq., the “*Act*”) and other applicable law, and in connection with the issuance by the Authority of its \$34,300,000.00 aggregate principal amount of “County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable)” consisting of (i) \$33,100,000.00 Series 2011A Bonds, issued on December 8, 2011 (the “*Series 2011A Bonds*”) and (ii) \$1,200,000.00 Series 2011B Note, issued on May 15, 2012 (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. Attached hereto as **Appendix A** is a true and complete copy of the Invoice No. [redacted] ([collectively,] the “*Invoice*”), submitted by Authority consultant [Inglesino, Pearlman, Wyciskala & Taylor, LLC / Gabel Associates Inc.] (the “*Consultant*”) in the amount of \$ [redacted] (the “*Consultant Costs*”).

2. The Consultant Costs are hereby approved and do constitute Administrative Expenses of the Authority as defined in (i) Section 101 of that certain “Lease Purchase Agreement Morris County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*Company Lease*”) by and between the Authority and SunLight General Morris Solar, LLC (the “*Company*”) and (ii) Section 1.01(3) of that certain “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 July 20, 2011, as amended and supplemented by a Certificate of an Authorized Officer of the Authority dated December 8, 2011 (the “*Bond Resolution*”).

3. The Trustee, as defined in the Bond Resolution, is hereby authorized and directed to promptly invoice the Company for the Consultant Costs as an Additional Lease Payment under (i) Section 5.03(4)(b) of the Bond Resolution and (ii) Sections 301(a)(ii)(A) and 308(b) of the Company Lease, and, upon receipt and deposit within the Administrative Expense Account of such Additional Lease Payment, the Trustee is hereby authorized and directed to forward the full amount to the Consultant.

IN WITNESS WHEREOF, on behalf of the Authority, I have hereunto set my hand on behalf of the Authority on this [] day of [], 201[].

**THE MORRISCOUNTY
IMPROVEMENT AUTHORITY**

By: _____
Name: John Bonanni
Title: Chairman

U.S. BANK, N.A.

I hereby certify, this [] day of [], 201[], that the attached Invoice to this Certificate of an Authorized Officer of the Authority shall serve as an invoice to the Company for an Additional Lease Payment, as required by (i) Section 5.03(4)(a) of the Bond Resolution and (ii) Section 308(b) of the Company Lease.

By: _____
Name: Rick Barnes
Title: Trustee

The receipt of this Certificate of an Authorized Officer of the Authority is hereby acknowledged by SUNLIGHT GENERAL MORRIS SOLAR, LLC (the "Company") this [] day of [], 201[]. The Company intends to pay this invoice out of a portion of the proceeds of the Series 2011 Bonds through the submission of draw papers, including the representations set forth in paragraph 4 thereof, in the form attached hereto as Appendix B.

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

By: _____
Name: Stacey Hughes
Title: Authorized Signatory

Appendix A
to the Certificate of the Authority
[Administrative Expenses – Invoice containing Consultant Costs]

Appendix B
to the Certificate of the Authority
[Form of Draw Papers – also Exhibit C to the Company Lease]