

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

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**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AMENDING THAT CERTAIN PROCUREMENT AND CONSTRUCTION CONTRACT BY AND BETWEEN SUNLIGHT GENERAL MORRIS SOLAR, LLC AND HESP CONSTRUCTION, LLC.**

**WHEREAS**, on December 8, 2011, The Morris County Improvement Authority (the "*Authority*") issued its \$33,100,000 County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A [Federally Taxable] (the "*Bonds*"), to finance, among other things, a portion of the costs of renewable energy projects for various local governmental units located in the County of Morris;

**WHEREAS**, in connection with the issuance of the Bonds, Sunlight General Morris Solar, LLC, as owner (the "*Owner*"), and HESP Construction, LLC, as contractor (the "*Contractor*"), entered into that certain Procurement and Construction Contract, dated as of April 20, 2016 (the "*Contract*"), which Contract was also acknowledged by the Authority;

**WHEREAS**, the parties to the Contract now desire to amend the Contract to replace one of the attachments thereto in its entirety; and

**WHEREAS**, pursuant to Section 20.11 of the Contract, the Contract may only be amended by written instrument signed by the Owner, the Contractor and the Authority;

**NOW, THEREFORE, BE IT RESOLVED BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY AS FOLLOWS:**

**Section 1.** The Authority hereby consents to and approves the amendment of the Contract in substantially the form of Amendment No. 1 to Procurement and Construction Contract (the "*Amendment*") attached hereto as **Exhibit A**. The Chairman or the Executive Director of the Authority is hereby authorized and directed to execute and deliver the Amendment in substantially such form.

**Section 2.** Subject to the second sentence of this Section 2, this resolution shall take effect immediately. In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the County Board of Chosen Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the County Board of Chosen Freeholders a certification from said Clerk stating that the minutes of this meeting have not been vetoed by the Director of the County Board of Chosen Freeholders.

**EXHIBIT A**

This **AMENDMENT NO. 1 TO PROCUREMENT AND CONSTRUCTION CONTRACT** (this "*Amendment*") is made and entered into as of [DATE], 2016, by and between **SUNLIGHT GENERAL MORRIS SOLAR, LLC**, a New Jersey limited liability company, as owner (the "*Owner*"), and **HESP CONSTRUCTION, LLC**, a New Jersey limited liability company, as contractor (the "*Contractor*"), and acknowledged by The Morris County Improvement Authority (the "*Authority*").

**WHEREAS**, on December 8, 2011, the Authority issued its \$33,100,000 County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A [Federally Taxable] (the "*Bonds*"), to finance, among other things, a portion of the costs of renewable energy projects for various local governmental units located in the County of Morris;

**WHEREAS**, in connection with the issuance of the Bonds, the Owner and the Contractor entered into that certain Procurement and Construction Contract, dated as of April 20, 2016 (the "*Original Contract*"), which Original Contract was also acknowledged by the Authority;

**WHEREAS**, the parties to the Original Contract now desire to amend the Original Contract to replace Attachment V-B thereto in its entirety; and

**WHEREAS**, pursuant to Section 20.11 of the Original Contract, the Original Contract may only be amended by written instrument signed by the Owner, the Contractor and the Authority;

**NOW, THEREFORE**, the parties hereto do mutually hereby covenant and agree as follows:

**Section 1.** The prior Attachment V-B to the Original Contract shall be and hereby is replaced with a revised Attachment V-B as attached hereto detailing the revised Milestone Payment Schedules.

**Section 2.** All other provisions of the Original Contract are hereby ratified and confirmed and shall remain in full force and effect.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the duly authorized officers of the parties hereto have executed this Amendment as of the date first above written.

Owner:

SUNLIGHT GENERAL MORRIS SOLAR, LLC

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

Name:

Title:

Contractor:

HESP CONSTRUCTION, LLC

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

Name:

Title:

As acknowledged by The Morris County Improvement Authority with respect to all terms herein, and as acknowledged and agreed by The Morris County Improvement Authority with respect to all provisions herein that impose direct obligation on, or attribute representations to, the Authority or the Authority Construction Monitor.

Authority:

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

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

Name:

Title:

## ATTACHMENT V-B

### MILESTONE PAYMENT SCHEDULES

Note: For purposes of this Attachment V-B, the term “Mobilization” shall mean, with respect to each Site, when Contractor has established sufficient equipment and temporary facilities at the Site to initiate services for the completion of the Work at the Site in accordance with this Agreement, including the Project Schedule.

<b>Milestone</b>	<b>% of Local Unit Price (Roof and Ground Mount)</b>	<b>% of Local Unit Price (Carport Canopies)</b>	<b>Retainage</b>
1. Notice to Proceed issued to Contractor and Construction Performance Bond issued to Owner/Authority	10%	10%	10%
2. Permits and approvals issued. Change of Contractor approved by Building Dept.	5%	5%	10%
3. Racking ordered	5%	5%	10%
4. Mobilization completed for full commencement of Work at Site(s) for the SGF	5%	5%	10%
5. Racking System delivered to local warehouse or to Site(s) for the SGF	10%	10%	10%
6. Racking System or Carport Canopy installed at the SGF	10%	10%	10%
7. Solar Modules Installation Completed for the SGF	10%	10%	10%
8. DC wiring and equipment complete and terminated	15%	15%	10%
9. Inverter Installation Completed for the SGF	10%	10%	10%
10. AC wiring and equipment complete and terminated	5%	5%	10%
11. Substantial Completion of the SGF (including tree removal where applicable)	10%	10%	5%
12. Final Completion of all SGFs	5%	5%	0%
<b>Total SGF Price</b>	<b>100%</b>	<b>100%</b>	

PC Contract for  
Morris County Improvement Authority  
Morris County Renewable Energy Program, Series 2011

Attachment V-B

**MOVED/SECONDED:**

Resolution moved by Commissioner \_\_\_\_\_.

Resolution seconded by Commissioner \_\_\_\_\_.

**VOTE:**

<b>Commissioner</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Gallopo				
Kovalcik				
Ramirez				
Sandman				
Bonanni				

This Resolution was acted upon at the Regular Meeting of the Authority held on July 25, 2016 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 25th day of July, 2016:

By: \_\_\_\_\_  
Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of July 25, 2016.

By: \_\_\_\_\_  
Matthew D. Jessup, Member  
McManimon, Scotland & Baumann, LLC  
Counsel to the Authority  
Resolution No. 16-28