



News from the Somerset County Board of Chosen Freeholders

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Somerset County Freeholders Approve Global Settlement for Solar Projects

Taxpayers' investment will be protected and two remaining Somerset County solar projects will be able to move forward under a global settlement of litigation that had stalled the initiative for several years.

The Somerset County Board of Chosen Freeholders and the Somerset County Improvement Authority each voted this week (Feb. 24) to approve the county's participation in the settlement, which will end Somerset County's role in the legal proceedings.

SunLight General Somerset Solar, LLC, was hired in 2011 as the project company for the second phase of the Somerset County Renewable Energy Program; Power Partners MasTec, LLC, was selected as the general contractor for the project by SunLight General.

After all but two of the sites in Somerset County were constructed, SunLight and MasTec disagreed over payments that were owed for work that was completed. Litigation over this contractual dispute erupted and involved numerous parties – including Somerset, Morris and Sussex counties – in both federal and state courts.

As the result of binding arbitration involving the two companies, an award of \$23.6 million was entered against SunLight. The county, which was not a party to the contract between the two companies, could not participate in the arbitration process, and viewed the issue solely as a contractual dispute. However, because the county guaranteed the bonds issued to construct the solar project sites it was included in the litigation as the guarantor. The arbitration process did not bring a resolution and the county determined to take an active role in bringing about a global settlement.

In 2011, when the county first authorized this project, it issued a guarantee not to exceed \$52 million. That guarantee will now be reduced to \$35.19 million. The arbitration award will then be paid utilizing existing project funds together with a county contribution of \$6.75 million; the contribution will be financed over the life of the projects. The county has consulted with the State Local Finance Board and with its bond-rating agency to ensure that the proposed settlement can be achieved without any negative impact to the county's triple-A financial rating as issued by Moody's Investor Services Inc.

"We were concerned that the arbitration award would jeopardize our completed solar-energy projects," said Somerset County Administrator Michael J. Amorosa, who also chairs the Improvement Authority. "We therefore made a cost-benefit decision to end the potentially expensive continued litigation in favor of a global settlement."

The two remaining Somerset County projects – solar panel installations on the Bridgewater Township Municipal Complex and the Warren Township Public Works Facility – will proceed in the near future, he said.

The settlement brings certainty and protects the energy savings that local governments have thus far enjoyed. The settlement also will minimize any potential impact to taxpayers by allowing the solar energy program to continue successfully as it has in the first phase – also known as Tranche I – of the Somerset County Renewable Energy Program.

It has been calculated that the savings from solar projects Tranche I and Tranche II will reduce electricity costs of participating local units by approximately 60 percent, or \$19 million.

In their respective first years, Tranche I saved participating county and local unit participants approximately \$633,311 in energy costs while Tranche II saved an estimated \$528,109. Tranche I included 32 solar-panel installations at county, municipal and school locations, while 35 projects have been completed to date in Tranche II.

The average annual savings in Tranche I over the term of the Power Purchase Agreement is approximately \$693,000, while the average annual savings for Tranche II is estimated to be \$674,500. In total, the Somerset County solar programs are saving participants an average of over \$1.2 million per year and over \$19 million over the life of the projects.

Additional benefits of the program include a stable and known cost of electricity for 15 years, allowing for budgetary certainty for the participating local government units and school districts; an educational component with the ability to access operational data for the solar systems via a web-enabled system; and carbon and other emission reductions from a non-emitting energy source.