

GUARANTY ORDINANCE OF THE COUNTY OF SOMERSET, NEW JERSEY,  
SECURING THE SOMERSET COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF  
SOMERSET GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE  
BONDS, SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL  
AMOUNT NOT TO EXCEED \$52,000,000

WHEREAS, the Somerset 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 Somerset (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; and

WHEREAS, the Authority has developed a 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 "*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*"; and

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*"); and

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby,

and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units; and

WHEREAS, (i) on November 16, 2010 the Authority issued its \$30,225,000 aggregate principal amount of “County of Somerset Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2010A [Federally Taxable]” and (ii) on or about January 19, 2011, the Authority anticipates issuing its \$10,525,000 aggregate principal amount of “County of Somerset Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2010B [Federally Taxable]”, all to finance the initial tranche (the “*Initial Tranche*”) of the Authority’s Renewable Energy Program; and

WHEREAS, the Authority is presently funding the engineering, energy consulting, legal, financial advisory and other preliminary costs of the second tranche (the “*Second Tranche*”) of its Renewable Energy Program necessary, desirable or convenient for the development and implementation of the Renewable Energy Program (the “*Preliminary Program Costs*”) prior to the issuance of the Authority’s hereinafter defined Series 2011 Bonds; and

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

- (i) Bernards Township, Bernardsville Borough, Bedminster Township, Borough of North Plainfield, Borough of Peapack and Gladstone and Warren Township (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Bernards Township Board of Education, North Plainfield Board of Education, Somerset Hill Board of Education, Warren Township Schools, Watchung Borough Board of Education and Watchung Hills Regional High School (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Somerset County Park and Somerset County V-Tech School (collectively, the “*County Series 2011 Local Units*”); and
- (iv) Bernardsville Public Library (the “*Nonprofit Corporation Series 2011 Local Unit*”)

(each a “*Series 2011 Local Unit*”, and together with any additional local governmental units within the County that might be added by the Authority to the Second Tranche pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of one or more series of hereinafter defined Series 2011 Bonds.

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series of either bond or notes entitled “County of

Somerset Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”), by either a competitive process or by negotiated sale after a competitive process to an Underwriter (as defined herein) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement (as defined herein) between the Underwriter and the Authority and (ii) one series of either bond or notes entitled “County of Somerset Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series 2011B (Federally Taxable)” dated their date of delivery (the “*Series 2011B Bonds*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), bearing the same interest rates as the Series 2011A Bonds, except for certain minor variances as set forth in the hereinafter defined Bond Resolution, by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$52,000,000; and

WHEREAS, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$52,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application; and

WHEREAS, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*”); and

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

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

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

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Somerset County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as

the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain “Power Purchase Agreement (Somerset County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the “*BPU*”), whereby, among other things,

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

(II) The Company shall establish a power purchase price based, in part, on the Authority’s covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority’s rights to the Solar Renewable Energy Certificates

("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

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

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

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

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$52,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Somerset County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution

(collectively, the “*County Guaranty*”), all pursuant to Section 37 (“*Section 37*”) of the Act (N.J.S.A. 40:37A-80); and

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$52,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty; and

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the “*County Security*”) to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the “*County Security Provider*”), all to secure, in part, the County’s payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Security Agreement*”) among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement; and

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall

remain available, after and to the extent the County has been fully paid under its County Guaranty; and

WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds; and

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

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

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Somerset County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented



from time to time in accordance with its terms, the “*County Continuing Disclosure Agreement*” and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12; and

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

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A-54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs; and

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent (“*Private Placement Agent*”), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”);
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale (“*Notice of Sale*”), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the “*Underwriter*”), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the

Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the “*Sale Documents*”);

WHEREAS, prior to the issuance of the Series 2011 Bonds 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 Renewable Energy Program to the Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by the County by resolution adopted by the Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF SOMERSET, NEW JERSEY, as follows:

Section 1. This guaranty ordinance shall be adopted by the governing body of the County in the manner provided for adoption of a bond ordinance as provided in the Local Bond Law, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State, as amended (the “*Local Bond Law*”).

Section 2. Pursuant to and in accordance with the terms of the Act, specifically Section 37, the County is hereby authorized to and hereby shall fully, unconditionally and irrevocably guarantee the punctual payment of the principal, when due, of (including sinking fund installments, if any) and interest on the Series 2011 Bonds in an aggregate principal amount not exceeding \$52,000,000, which Series 2011 Bonds are to be issued to finance the Series 2011 Project as described in the preambles hereof. Notwithstanding the provisions of any other Program Document, upon the endorsement of the Series 2011 Bonds referred to in Section 3 below by an authorized officer of the County, the County shall be fully, unconditionally and irrevocably obligated to pay, when due, the principal of (including sinking fund installments, if any) and interest on the Series 2011 Bonds to the extent the Trustee, for any reason, has insufficient monies on any such payment dates to pay the principal of and interest on the Series 2011 Bonds in full when due on any such payment dates, in the same manner and to the same extent as in the case of bonds issued by the County, and accordingly, the County shall be fully, unconditionally and irrevocably obligated to levy *ad valorem* taxes upon all the taxable property within the County for the payment thereof without limitation as to rate or amount. This full, unconditional and irrevocable guaranty of the County effected hereby to pay the principal of (including sinking fund installments, if any) and interest on the Series 2011 Bonds when due in

accordance with the terms hereof and of the Program Documents may not be waived, setoff or otherwise abrogated by action or inaction of the Authority, the County or for any other reason.

Section 3. The Director of the Board of Freeholders (the “*Freeholder Director*”) shall, by manual or facsimile signature, and is hereby directed to execute an endorsement on each of the Series 2011 Bonds evidencing this guaranty by the County as to the punctual payment of the principal of (including sinking fund installments, if any), when due, and interest thereon. The endorsement on each Series 2011 Bond shall be in substantially the following form, and absent the fully executed endorsement in such following form on any such Series 2011 Bond, such Series 2011 Bond shall not be entitled to the benefits of this guaranty ordinance:

“GUARANTY OF THE COUNTY OF SOMERSET, NEW JERSEY

The payment of the principal of (including sinking fund installments, if any) and interest on the within Series 2011 Bond shall be fully, irrevocably and unconditionally guaranteed by the County of Somerset, New Jersey (the “County”) in accordance with the provisions of N.J.S.A. 40:37A-80 and the guaranty ordinance of the County finally adopted pursuant thereto and the County Guaranty Agreement executed by the County in connection therewith, and the County is fully, irrevocably and unconditionally liable for the payment, when due, of the principal of (including sinking fund installments, if any) and interest on this Series 2011 Bond, and if necessary the County shall levy *ad valorem* taxes upon all the taxable property within the County without limitation as to rate or amount in order to make such payments on time and in full.

IN WITNESS WHEREOF, the County has caused this County Guaranty to be executed by the manual or facsimile signature of its Freeholder Director.

COUNTY OF SOMERSET, NEW JERSEY

By: \_\_\_\_\_  
Freeholder Director

The Freeholder Director is hereby further authorized to execute or acknowledge such other certificates or agreement relating to this full, irrevocable and unconditional guaranty that may be required by the Authority to comply with the terms of the Program Documents, including without limitation, the County Guaranty Agreement in substantially the form attached hereto as Exhibit A, with such changes thereto as the Freeholder Director, in consultation with counsel to the County and other professional advisors deems in his sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Freeholder Director’s approval of any changes to the forms thereof. Such further agreement or certificate shall not in any manner relieve the County from its obligations hereunder, and shall contain only such terms as are consistent with or within the parameters herein set forth.

Section 4. It is hereby found, determined and declared by the governing body of the County that:

(a) This guaranty ordinance may be adopted notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the Local Bond Law, but the aggregate principal amount of the Series 2011 Bonds which shall be entitled to the benefits of this guaranty ordinance, being an amount not to exceed \$52,000,000, shall, after their issuance, be included in the gross debt of the County for the purpose of determining the indebtedness of the County under or pursuant to the Local Bond Law.

(b) The principal amount of Series 2011 Bonds entitled to the benefits of this guaranty ordinance and included in the gross debt of the County shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of the Local Bond Law (i) from and after the time of issuance of the Series 2011 Bonds until the end of the fiscal year beginning next after the completion of acquisition, construction, installation or renovation of the Series 2011 Project, and (ii) in any annual debt statement filed pursuant to the Local Bond Law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the Authority in such year (including amounts payable pursuant to the Local Unit Bonds) are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal of and interest on all such guaranteed Series 2011 Bonds, all bonds of the County issued as provided in Section 36 of the Act (N.J.S.A. 40:37A-79) and all bonds of the Authority issued under the Act.

Section 5. The following matters are hereby determined, declared, recited and stated:

(a) The maximum principal amount of Series 2011 Bonds (including one or more series of bonds and one or more series of bond anticipation notes issued in anticipation thereof) of the Authority which are hereby and hereunder fully, unconditionally and irrevocably guaranteed as to the punctual payment of the principal thereof (including sinking fund installments, if any) and interest thereon is \$52,000,000; the maximum principal amount of Series 2011 Bonds (including one or more series of bonds and one or more series of bond anticipation notes issued in anticipation thereof) of the Authority that may be outstanding at any one time is \$52,000,000; and the maximum estimated cost of the Series 2011 Project to be financed in accordance with the transactions contemplated hereby is \$52,000,000.

(b) The purpose described in this guaranty ordinance is not a current expense of the County and no part of the cost thereof has been or shall be assessed on property specially benefited thereby.

(c) A supplemental debt statement of the County has been duly made and filed in the office of the Clerk of the Board, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State, and such debt statement shows that while the gross debt of the County, as defined in the Local Bond Law, is increased by this guaranty ordinance by \$52,000,000 in accordance with the provisions of the Act, the net debt of the County is not increased, and the obligation of the County authorized by or incurred pursuant to the terms of this guaranty ordinance is permitted by an exception to the debt limitations of the Local Bond

Law which exception is contained in the Act, so long as the payment obligations of the County hereunder are not called upon.

(d) Other than the publication requirements set forth below, all other items to be contained in a bond ordinance adopted pursuant to the Local Bond Law are hereby determined to be inapplicable to the County's guaranty of the Series 2011 Bonds hereby.

Section 6. To the extent the Authority determines that it is in the best interest of the Authority and the Local Units, the Authority is hereby authorized to finance the Local Unit Projects as separate issues through one or more separate series of Series 2011 Bonds which in the aggregate shall not exceed \$52,000,000. Such series of Series 2011 Bonds shall be entitled to the benefits of this County Guaranty in an aggregate amount not to exceed \$52,000,000.

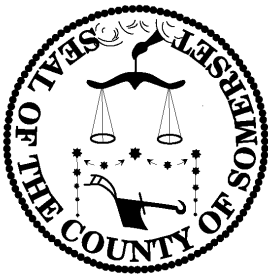
Section 7. To the extent the Series 2011 Bonds are not issued in 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds and all dates related to such year of issuance shall be automatically adjusted.

Section 8. This guaranty ordinance shall take effect at the time and in the manner provided by law.

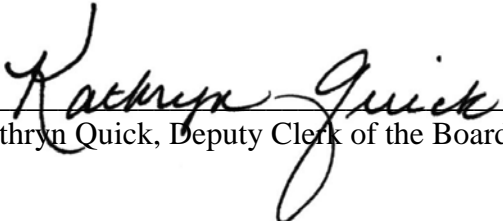
Section 9. A public hearing was held on this guaranty ordinance on February 9, 2011 at 7:00p.m. in the Freeholder Meeting Room, 3<sup>rd</sup> Floor, County Administration Building, 20 Grove Street, Somerville, New Jersey.

Section 10. The Deputy Clerk of the Board of Freeholders is hereby directed to publish and post notice of this guaranty ordinance as required by applicable law, including the Act and Local Bond Law.

Section 11. Upon the adoption hereof, the Secretary shall forward certified copies of this guaranty ordinance to Michael J. Amorosa, County Administrator, Richard E. Williams, Chairman of the Authority, Thomas C. Miller, Esq., County Counsel and Authority Counsel, Stephen B. Pearlman, Esq., Bond Counsel to the Authority for this transaction, and Ryan J. Scerbo, Esq., Energy Counsel to the Authority.



I, Kathryn Quick, Deputy Clerk of the Board of Chosen Freeholders of the County of Somerset in the State of New Jersey, do hereby certify that the foregoing is a true copy of an Ordinance adopted by said Board of Chosen Freeholders at its regularly convened meeting of February 9, 2011.

  
Kathryn Quick, Deputy Clerk of the Board