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**COUNTY GUARANTY AGREEMENT  
(Somerset County Renewable Energy Program, Series 2010)**

**By and Between**

**SOMERSET COUNTY IMPROVEMENT AUTHORITY**

**And**

**COUNTY OF SOMERSET**

**Dated: as of November 1, 2010**

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with respect to the Somerset County Improvement Authority's  
not to exceed \$55,000,000 aggregate principal amount of  
County of Somerset Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2010 (Federally Taxable)

THIS “**COUNTY GUARANTY AGREEMENT (Somerset County Renewable Energy Program, Series 2010)**” dated as of \_\_\_\_\_, 2010 (as the same may be amended or supplemented in accordance with its terms, the “**County Guaranty Agreement**”) by and between **THE SOMERSET COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “**Authority**”), duly created by resolution of the Board of Chosen Freeholders (“**Board of Freeholders**”) of the hereinafter defined County as a public body corporate and politic of the State of New Jersey (“**State**”) pursuant to and in accordance with the provisions of 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 the COUNTY OF SOMERSET, a political subdivision of the State (the “**County**”).

**W I T N E S S E T H:**

**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;

**WHEREAS**, the Authority is developing 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 its affiliates, and the 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**, 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;

**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 scheduled net cost to the Local Units;

**WHEREAS**, the Authority is presently funding the engineering, energy consulting, legal, financial advisory and other preliminary costs of the 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 Authority bonds that shall finance Renewable Energy Program, including the hereinafter defined Series 2010 Bonds;

**WHEREAS**, in order to implement the initial tranche of the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on 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) Borough of Bound Brook, Township of Bridgewater, Township of Franklin, Borough of Manville, Borough of Somerville, Township of Montgomery (collectively, the “*Municipal Series 2010 Local Units*”); and
- (ii) Board of Education of the Township of Branchburg, Bridgewater-Raritan Regional Board of Education, Franklin Township Board of Education, Board of Education of Green Brook Township, Manville Board of Education, Montgomery Township Board of Education, Somerville Board of Education (collectively, the “*Board of Education Series 2010 Local Units*”); and
- (iii) County and Raritan Valley Community College (collectively, the “*County Series 2010 Local Units*”);

(each a “*Series 2010 Local Unit*”, and collectively, the “*Series 2010 Local Units*”), through the issuance by the Authority of one or more series of its notes or bonds entitled “County of Somerset Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series 2010 (Federally Taxable)” dated their date of delivery, Outstanding (in the aggregate at any one time under and as defined in the Bond Resolution) in principal amount (including sinking fund installments, if any) not to exceed \$55,000,000 (the “*Series 2010 Bonds*”);

**WHEREAS**, any notes issued as Series 2010 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2010 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2010 Bonds and Outstanding, together with all other Outstanding Series 2010 Bonds, does not exceed \$55,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the hereinafter defined Local Finance Board Application;

**WHEREAS**, to the extent so requested by the County for County investment purposes, (i) the Authority shall sell one or more series of Series 2010 Bonds, in an aggregate principal amount not to exceed \$10,000,000, directly to the County (the "*Series 2010B Bonds*"), (ii) in which case the balance of the Series 2010 Bonds (the "*Series 2010A Bonds*", and together with the Series 2010B Bonds, the previously defined "*Series 2010 Bonds*") shall be issued (a) in one or more series, and (b) in an aggregate principal amount equal to (I) the maximum (i.e., \$55,000,000) authorized, aggregate principal amount of Series 2010 Bonds that may be Outstanding (as defined in the Bond Resolution), less (II) the aggregate principal amount of Series 2010B Bonds issued and Outstanding at the time of issuance of the Series 2010A Bonds;

**WHEREAS**, the Series 2010 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 Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2010 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 2010 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 2010 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 2010 Project*");

**WHEREAS**, the Series 2010 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 2010 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 a Certificate of an Authorized Officer of the Authority dated the date of issuance of the Series 2010 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;

**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 2010 Bonds, the Authority shall have entered into a “License and Access Agreement (Somerset County Renewable Energy Program, Series 2010)” to be dated as of the first day of the month of issuance of the Series 2010A 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 2010 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 2010 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 2010 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 2010 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2010 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 2010 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2010 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2010 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2010A 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 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 that certain “REQUEST FOR PROPOSALS FOR A DEVELOPER OF PHOTOVOLTAIC SYSTEMS WITH RESPECT TO CERTAIN LOCAL GOVERNMENT FACILITIES IN THE COUNTY OF SOMERSET, NEW JERSEY” dated July 30, 2010 and issued by the Authority seeking proposals from prospective solar developers (as the same may be amended or supplemented, the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal (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 2010 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 2010)” to be dated as of the first day of the month of issuance of the Series 2010A 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 2010 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 2010 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 2010 Local Units;

- (b) That certain “Power Purchase Agreement (Somerset County Renewable Energy Program, Series 2010)” to be dated as of the first day of the month of issuance of the Series 2010A 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 2010 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 2010 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 2010 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, if any, for the Series 2010 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2010 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 2010 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2010 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 2010 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 2010 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 2010 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2010 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 2010 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$55,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2010 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 2010 Bond and (iii) a "County Guaranty Agreement (Somerset County Renewable Energy Program, Series 2010)" to be dated as of the first day of the month of issuance of

the Series 2010A 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 (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);

**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 2010 Bonds;

**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 2010 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 2010 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;

**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 2010 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 reimbursed for payments made by the County under its County Guaranty;

**WHEREAS**, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to 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 2010 Bonds;

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, the Authority may require the Company to further secure its obligation to fund the County Security Fund in the amount of the County Security Fund Requirement 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 2010)" to be dated as of the first day of the month of issuance of the Series 2010A 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;

**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 2010)" to be dated as of the first day of the month of issuance of the Series 2010A 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;

**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 2010)" dated as of February 1, 2010 (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;

**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;

**WHEREAS**, prior to the issuance of the Series 2010A Bonds and in accordance with 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;

**WHEREAS**, in order to market and sell the Series 2010A Bonds, the Authority shall determine to either (i) privately place the Series 2010A 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 2010A 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 2010A Bonds, the Series 2010 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”);
- (b) If the Series 2010A 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 2010A 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 2010A Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2010A 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**, as the Authority contemplates a private placement of the Series 2010B Bonds directly with the County, the Authority may, but shall not be required to, utilize any Sale Document or Underwriter with respect to the Series 2010B Bonds; and

**WHEREAS**, prior to the issuance of the Series 2010A 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 Service Agreement, the Series 2010 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**, in consideration of the premises and the mutual covenants and agreements set forth herein, the Authority and the County and its successors and assigns, do mutually covenant, promise and agree as follows:

**Section 1.** Pursuant to the provisions of the Act and the County Guaranty ordinance, the County shall, and hereby agrees to fully, irrevocably, and unconditionally guarantee the punctual payment of the principal of (including sinking fund installments) and the interest on the Series 2010 Bonds. The aggregate principal amount of Series 2010 Bonds may not exceed \$55,000,000. The full faith and credit of the County are hereby pledged for the full and punctual performance of the County Guaranty. Accordingly, the Freeholder-Director of the County shall, and hereby is, authorized and directed to execute and deliver the County Guaranty Certificate in the form set forth in Section 14.01 of the Bond Resolution upon initial issuance of the Series 2010 Bonds, as part of each such Series 2010 Bond. This County Guaranty Agreement shall not guaranty the payment of any redemption premium with respect to the Series 2010 Bonds. Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Bond Resolution.

**Section 2.** The Authority agrees to apply the proceeds derived from the sale of the Series 2010 Bonds to Costs associated with the Projects for the Series 2010 Local Units, including payment of Costs of Issuance, Administrative Expenses and required reserves, if any, and such other matters as set forth in the Bond Resolution. In furtherance thereof, the County covenants to cause the Authority to issue the Certificate contemplated by Section 6.04(3) thereof no later than January 31, 2011.

**Section 3.** The Authority will keep, or cause to be kept by the Trustee or otherwise, proper books of record and account in which complete and correct entries shall be made of its transactions relating to the Projects and which, together with all other books and papers of the Authority, shall at all reasonable times be subject to inspection by the County.

**Section 4.** Attached hereto as **Exhibit A** is the following information required by the County in order to discharge its obligations under this County Guaranty Agreement:

(a) The date of issuance, the maturity dates, the principal amortization, the interest rate or rates, and the Trustee and Paying Agent for the Series 2010 Bonds.

(b) The Basic Lease Payments and the Basic Lease Payment Dates.

**Section 5.** If, thirty (30) days prior to any Interest Payment Date or Principal Payment Date, the amounts that are on deposit in the Aged Account of the Revenue Fund established under the Bond Resolution are insufficient to provide for the payment of the principal of (including sinking fund payments, if any) and/or interest on the Series 2010 Bonds that are due and payable on such payment dates, the Trustee shall notify the County's Chief Financial Officer on such day of the amounts that are necessary to provide for the payment of the principal of and/or interest on the Series 2010 Bonds (the "**Deficiency**"). The County shall be obligated to make payment of the Deficiency to the Trustee no later than one (1) business day prior to the Interest Payment Date or the Principal Payment Date, as applicable, of the Series 2010 Bonds. Notwithstanding any other provision of this Guaranty Agreement, failure by the Trustee to give the County notice as provided herein shall not relieve the County of its obligations to make payment under the terms of the County Guaranty.

(a) Notwithstanding the foregoing provisions of this Section 5, upon the occurrence and continuance of the Deficiency one (1) business day prior to the Interest Payment Date or the Principal Payment Date with respect to the Series 2010B Bonds only, and to the extent the County is the Holder of one hundred percent (100%) of the Outstanding principal amount of the Series 2010B Bonds, the County may, in its sole discretion and in lieu of making payment on that portion of the Deficiency (with respect to the Series 2010B Bonds only) to satisfy the County's payment obligations under its County Guaranty, determine to exercise its right to cause the extraordinary optional redemption of all of the Series 2010B Bonds, as contemplated by Section 2.03(5)(b) of the Bond Resolution, for the Redemption Price of one dollar (\$1). In any such instance, the County may establish the redemption date at any time, including without limitation on such date, with written notice to the Authority and the Trustee. Nothing in this Section 5(a) is intended to diminish the County's rights to reimbursement as if payment had been made in full and on time under its County Guaranty obligations hereunder with respect to the Series 2010B Bonds, including those rights set forth in Section 7 hereof.

**Section 6.** Subject to Section 5(a) hereof, when notice has been provided, as described above, the County shall take all necessary actions to make payment of the Deficiency to the Trustee as provided above. Such actions shall include the adoption of an emergency appropriation or an

emergency temporary appropriation and the funding of such appropriation in accordance with the requirements of the Local Budget Law (N.J.S.A. 40A:4A-1 *et seq.*), the levy of *ad valorem* taxes on all taxable property in the County, without limitation as to rate or amount, or any other actions that are legally permitted to be taken to meet the requirements of such County Guaranty (including the adoption of a bond ordinance pursuant to the provisions of the Local Bond Law).

**Section 7.** (a) The Authority hereby covenants to the County that in the event the County Guaranty is called upon, the Authority shall be obligated and shall take all actions within its power (in accordance with the terms of the Act), including causing the Trustee to pay over to the County all funds on deposit in the County Security Fund held by the Trustee under the Bond Resolution as monies therein shall not be part of the Trust Estate pledged to the payment of debt service on the Series 2010 Bonds, so as to enable the County to be reimbursed, to the maximum extent practicable, up to the amount that shall have been paid by the County pursuant to the terms of this County Guaranty Agreement (i.e., the Deficiency), at the earliest practicable date. The Authority shall not be obligated to pay the Deficiency from funds within its general control that are not contemplated by the Program Documents; the Authority, shall, however, pay or cause the Deficiency to be paid from amounts the Authority controls on deposit in the County Security Fund, or from any past due Basic Lease Payments it receives from the Company.

(b) Nothing herein provided shall in any way diminish the County's rights to receive payment from the County Security Provider under the County Security for reimbursement of any County payment of the Deficiency. The Authority shall take all actions necessary, desirable or convenient to assist the County in any such reimbursement action, and simultaneously with the authorization, execution and delivery hereof, the Authority shall deliver or cause to be delivered to the County either (i) a County Security Agreement, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited or to be in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, Program Documents incorporating the repayment provisions to the County of the County Security, including without limitation Section 5.07 of the Bond Resolution.

(c) As further security and further assurance for the Company's obligations to (i) make Basic Lease Payments, (ii) make those Additional Lease Payments constituting part of the Trust Estate, and (iii) pay interest at the Overdue Rate on such amounts in clauses (i) and (ii), all at the times, in the amounts, and otherwise in accordance with the terms and provisions of the Company Lease Agreement, the failure to make timely and full payment of which could cause any such Deficiency, the Authority hereby further assigns and pledges all of its right, title and interest in and to the Reimbursement Collateral to the County, to be held as collateral to secure such Deficiency payment; provided, however, that to the extent the County is reimbursed in full for its Deficiency payment(s) by the County Security Provider from the County Security, the County expressly acknowledges it shall have no further rights to the Reimbursement Collateral, and further, that the County Security Provider shall, in such instance, be exclusively entitled to the Reimbursement Collateral. This County Guaranty Agreement shall be deemed to be a security agreement for purposes of the Uniform Commercial Code and all other applicable law.

**Section 8.** The obligations of the County under this County Guaranty Agreement shall be full, absolute, irrevocable, and unconditional, and shall remain in full force and effect until the entire principal of (including Sinking Fund Installments, if any) and interest on the Series 2010 Bonds shall have been paid or duly provided for in accordance with the provisions of the Bond Resolution. The obligations of the County hereunder shall not be affected, modified or impaired upon the occurrence from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, the County:

(a) The waiver, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the Authority which are contained in the Bond Resolution and any other Program Document, or of the payment, performance or observance thereof;

(b) The failure to give notice to the County of the occurrence of an event of default under the provisions of this County Guaranty Agreement;

(c) The transfer, assignment or mortgaging or the purported transfer, assignment or mortgaging of all or any part of the interest or security interest of the Authority in the Projects;

(d) The extension of the time for payment of the principal of or interest on the Series 2010 Bonds or of the time for performance of any obligations, covenants or agreements under or arising out of the Program Documents;

(e) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Program Documents;

(f) The taking, suffering or the omission of any of the actions referred to in the Series 2010 Bond Resolution or of any actions under this County Guaranty Agreement;

(g) Any failure, omission, delay or lack on the part of the Authority to enforce, assert or exercise any right, power or remedy conferred on the Authority in this County Guaranty Agreement, the Series 2010 Bond Resolution or any other act or acts on the part of the Authority or any of the holders from time to time of the Series 2010 Bonds;

(h) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment or other similar proceedings affecting the Authority or any party to the Program Documents or any of the assets of any of them, or any allegation or contest of the validity of the County Guaranty, or the Series 2010 Bond Resolution;

(i) To the extent permitted by law, any event or action that would, in the absence of this clause, result in the release or discharge by operation of law of the County from the

performance or observance of any obligation, covenant or agreement contained in this County Guaranty Agreement; or

(j) The default or failure of the County fully to perform any of its obligations set forth in this County Guaranty Agreement.

**Section 9.** No set-off, counterclaim, reduction, or diminution of any obligation, or any defense of any kind or nature (other than full and timely performance by the County of its obligations hereunder) which the County has or may have against the Authority, the Trustee or against any holder of the Series 2010 Bonds, shall be available to the County hereunder against the Authority or the Trustee or anyone succeeding to the interest of the Authority or the Trustee.

**Section 10.** The County further guarantees that all payments made with respect to the Series 2010 Bonds will, when made, be final and agrees that if such payment is recovered from or repaid by or on behalf of the Authority or the holders of the Series 2010 Bonds in whole or in part in any bankruptcy, insolvency or similar proceeding instituted by or against the Authority, the County Guaranty shall continue to be fully applicable to such liabilities to the same extent as though the payment so recovered or repaid had never been originally made on such liabilities.

**Section 11.** In the event of a default in payment of the principal of or interest on the Series 2010 Bonds when and as the same shall become due, whether at the stated maturity thereof or otherwise, the Authority, the Trustee or any party to whom the Authority's or the Trustee's rights have been assigned may proceed to enforce their rights hereunder and may proceed first and directly against the County under the terms of this County Guaranty Agreement without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by the Authority or the Trustee. In any such event, the County shall be subrogated to the rights of such party with respect to such security. All moneys recovered pursuant to this County Guaranty Agreement shall be applied in accordance with the provisions of the Bond Resolution.

**Section 12.** The County hereby acknowledges that it is an "obligated person" as such term is defined in Rule 15c2-12, and the preparation, negotiation, execution and delivery of the County Continuing Disclosure Agreement in accordance with Rule 15c2-12 is hereby approved in the form attached as **Exhibit B** hereto, and the Freeholder Director of the County is hereby authorized to execute the County Continuing Disclosure Agreement and to deliver the same to the Trustee and the Authority. The Freeholder Director is hereby authorized and directed to execute and deliver such other documents, certificates and agreements required to be delivered by the County under the County Continuing Disclosure Agreement, and the Clerk of the County is hereby authorized and directed to attest and affix the seal of the County to any such document, certificate or agreement, if necessary.

**Section 13.** This County Guaranty Agreement shall terminate after payment in full of the principal of and interest on the Series 2010 Bonds have been made, or provision for the payment of

same has been made in accordance with the terms of the Bond Resolution, including without limitation Article XII thereof.

**Section 14.** This County Guaranty Agreement may be executed in any number of counterparts, each of which shall be executed by the Authority and by the County and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same. This County Guaranty Agreement shall be governed by the laws of the State.

**Section 15.** The County hereby acknowledges and consents to the irrevocable assignment of the right of the Authority to receive payments from the County under the provisions of the County Guaranty by the Authority to the Trustee for the benefit of the holders of the Series 2010 Bonds, as and to the extent provided in the Bond Resolution.

**Section 16.** Notwithstanding anything contained herein to the contrary, in the event that the form of government is changed so that there is no longer a Chief Financial Officer of the County, any notices contemplated hereunder shall be provided to and any actions contemplated to be taken hereunder shall be taken by the chief executive officer of the County.

[Remainder of Page Intentionally Left Blank]



**Section 17.** Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2010 Local Units.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be signed by their respective officers thereunto duly authorized and this agreement to be dated as of the date and the year first above written.

**ATTEST:**

**THE SOMERSET COUNTY  
IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_  
**Michael Amorosa**  
**Secretary**

By: \_\_\_\_\_  
**Richard E. Williams**  
**Chairman**

**ATTEST:**

**COUNTY OF SOMERSET,  
NEW JERSEY**

By: \_\_\_\_\_  
**Clerk of the Board of Freeholders**

By: \_\_\_\_\_  
**Jack M. Ciattarelli**  
**Freeholder Director**

[ Signature Page to the County Guaranty Agreement ]

## EXHIBIT A

### Pricing Information with respect to the Series 2010 Bonds

1. Dated Date, Issuance Date and Date of Authentication of Series 2010 Bonds:

Dated Date, Issuance Date and Date of Authentication of Series 2010A Bonds:  
November \_\_ 2010

Dated Date, Issuance Date and Date of Authentication of Series 2010B Bonds:  
January \_\_, 2011

2. Paying Agent and Trustee for Series 2010 Bonds:

3. Amortization and Interest Rates of Series 2010 Bonds:

May 15	Amount Maturing	Interest Rate and Yield	May 15	Amount Maturing	Interest Rate and Yield
2012			2020		
2013			2021		
2014			2022		
2015			2023		
2016			2024		
2017			2025		
2018			2026		
2019					
<b>Total</b>				[not exceeding] \$55,000,000.00	

- (a) Consisting of the Series 2010A Bonds

May 15	Amount Maturing	Interest Rate and Yield	May 15	Amount Maturing	Interest Rate and Yield
2012			2020		
2013			2021		
2014			2022		
2015			2023		

2016			2024		
2017			2025		
2018			2026		
2019					
<b>Total</b>					

(b) And the Series 2010 B Bonds in the aggregate principal amount not to exceed \$10,000,000.

<b>May 15</b>	<b>Amount Maturing</b>	<b>Interest Rate and Yield</b>	<b>May 15</b>	<b>Amount Maturing</b>	<b>Interest Rate and Yield</b>
2012			2020		
2013			2021		
2014			2022		
2015			2023		
2016			2024		
2017			2025		
2018			2026		
2019					
<b>Total</b>				[not exceeding] <u>\$10,000,000.00</u>	

[Remainder of page intentionally left blank]

4. Debt Service Payments for Series 2010 Bonds:

<b>Interest Payment Date</b>	<b>Interest</b>	<b>Principal</b>	<b>Total Debt Service Payment</b>

[Remainder of page intentionally left blank]

5. Basic Lease Payments and Basic Lease Payment Dates relating to the Series 2010 Bonds:

Basic Lease Payment Date	Interest Portion	Principal Portion	Total Basic Lease Payment
<b>TOTAL</b>		<u>\$ .00</u>	

[Remainder of page intentionally left blank]

## **EXHIBIT B**

**[Attach Form of County Continuing Disclosure Agreement]**

[See Closing Item No. 7]