

PUBLIC COMMENTS-(agenda items only)

LICENSES

- Raffle License – RL 1378 – AARP #4855 East Brunswick Chapter (50/50)
- Raffle License – RL 1379 – Memorial School PTA (50/50)
- Raffle License – RL 1380 – Little House Association of South River (Tricky Tray)
- Raffle License – RL 1381 – Little House Association of South River (50/50)

MAYOR'S APPOINTMENT

- 313. Appoint Julie Cosentino to the Advisory Committee on Handicapped and Disabled

Consent Resolution: 1. ____ 2. ____

RES:2011-

- 314. Refund of water, electric consumer deposits
- 315. Cancellation of Outdated Checks
- 316. Approve Power Purchase and Sale Agreement and Interconnection Agreement
with South River Solar I, LLC
- 317. Approve SR Board of Education Tax Requisition – Operating Expense
- 318. Approve Mercantile license for Caribbean Café Deli & Grocery, LLC
- 319. Approve Mercantile license for El Ranchero Del Sur LLC
- 320. Approve Anthony Delucia – Probationary Member – Reliable Fire Co. – SRFD
- 321. Approve Economic Development Commission Cruise Night – October 20, 2011
- 322. Appoint Recreation Department Fall/Winter Employees

BILLS ORDERED PAID

323. 1. ____ 2. ____

COUNCIL COMMENTS

PUBLIC COMMENTS-(good & welfare of Borough)

EXECUTIVE SESSION

ADJOURNMENT

ORDINANCE 2011-29

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF SOUTH RIVER, CHAPTER 72 ENTITLED "DEPARTMENT OF PUBLIC SAFETY" BY AMENDING SECTIONS 72-4B(2)

BE IT ORDAINED by the Mayor and Borough Council of the Borough of South River, that Chapter 72 of the Code of the Borough of South River entitled "Department of Public Safety" be amended by amending Section 72—4B(2), as follows:

SECTION 1.

72-4B. Election of Officers.

(2) At least two weeks before such election, the Borough Clerk shall post notices of such election in the headquarters of each fire company. Prior to said election, [one] candidates [from each company] shall be nominated for the positions of Chief, First Assistant Chief and Second Assistant Chief of the Department. Each of the foregoing positions shall be filled by a member of a different company. The nominees of each company shall have at least four (4) year's experience as a captain and/or lieutenant in a company of the South River Fire Department at the time of nomination and shall meet all state, federal and local requirements for such position at that time. The names of the nominees shall be submitted to and voted upon by the Department at the annual election as set forth above, and the nominee receiving the largest number of votes for each of the said offices shall be declared elected to such office. The Chairman of the Fire Committee of the Borough Council shall preside at and conduct such election but shall have no vote therein except in case of a tie, whereupon he shall cast the deciding vote.

SECTION 2. If any section, paragraph, subdivision, clause of provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 3. All Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. This Ordinance shall take effect after final passage, adoption, and publication according to law.

Dated:
ATTEST:

RAYMOND T. EPPINGER, Mayor

PATRICIA O'CONNOR, Registered Municipal Clerk

* Additions are underlined; deletions are in brackets

ORDINANCE 2011-30

AN ORDINANCE AUTHORIZING THE ENTERING, EXECUTION AND DELIVERY OF A LEASE AGREEMENT FOR LEASE OF A PART OF BLOCK 380 LOT 1.03 TO SOUTH RIVER SOLAR I, LLC FOR THE PURPOSE OF CONSTRUCTING A SOLAR POWER PRODUCTION FACILITY

WHEREAS, the governing body has negotiated a lease through special counsel with South River Solar I, LLC for construction of a solar power production facility for premises known as part of Block 380 Lot 1.03 located on Ivan Way; and

WHEREAS, the governing body has approved the terms of the lease agreement, attached hereto as an addendum, the terms of which are summarized as follows:

Purpose: Provide a ground lease upon which South River Solar I, LLC shall construct a solar array of approximately 2.3 MW, contingent upon execution of a purchase power agreement ("PPA") conveying the entire output of the project to the Borough of South River, New Jersey, the term of which lease is 25 years, and the consideration is \$1.00 per year, for the duration of the purchase power agreement ("PPA").

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED AND ENACTED by the Mayor and Borough Council of the Borough of South River, County of Middlesex, State of New Jersey as follows:

SECTION I. The Mayor and Council authorize the lease of a part of Block 380 Lot 1.03 to South River Solar I, LLC pursuant to N.J.S.A. 40A:12-14(c). The Mayor and Borough Clerk are hereby authorized to execute the lease agreement upon receipt of the agreement executed by the authorized officers of South River Solar I, LLC contingent upon execution of a purchase power agreement ("PPA").

SECTION II. The various parts, sections, clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION III. Any ordinances and parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION IV. This Ordinance shall take effect upon final adoption and publication as may be required by law.

Dated:

ATTEST:

RAYMOND T. EPPINGER, Mayor

PATRICIA O'CONNOR, Registered Municipal Clerk

ADDENDUM TO ORDINANCE 2011-30

**GROUND LEASE AGREEMENT
BY AND BETWEEN
THE BOROUGH OF SOUTH RIVER AND
SOUTH RIVER SOLAR I, LLC**

THIS GROUND LEASE AGREEMENT (the "Lease") is made as of the ____ day of _____, 2011 (the "Effective Date"), by and between the Borough of South River, New Jersey, a municipal corporation of the State of New Jersey, having an address at 48 Washington Street, South River, New Jersey 08882 (the "Borough" or "Lessor"), and South River Solar I, LLC New Jersey limited liability company having an address at 1875 I Street NW, Washington, DC 20006 ("SR Solar I" or "Lessee") (also referred to herein sometimes as the "Parties").

WITNESSETH

WHEREAS, the Borough and South River Solar I, LLC have agreed to enter into a Power Purchase and Sale Agreement (the "PPSA") pursuant to which SR Solar I will develop, construct and operate a solar electric generating facility with a nameplate rating of approximately 2.3 MWDC and an estimated intermittent annual output of 2,900 MWh per year (the "Facility") and to sell the solar energy produced by the Facility to the Borough for direct use by the Borough; and

WHEREAS, SR Solar I wishes to enter into possession of the certain land from the Borough for the purpose of developing, constructing and operating the Facility and otherwise performing its obligations under the PPSA; and

WHEREAS, pursuant to N.J. Stat. §40A:12-14(c) (2011), the Borough wishes to lease the land to SR Solar I so that SR Solar I can use the land for the purpose of developing, constructing and operating the Facility and otherwise performing its obligations under the PPSA.

NOW, THEREFORE, in consideration of the promises and covenants herein set forth, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, and in accordance with this Lease, and the interests of the Lessor and Lessee in the construction and operation of the Facility in accordance with the PPSA, and each Party intending to be legally bound, hereby agrees as follows:

ARTICLE I.

LEASE OF THE LAND; RENT; TERM OF LEASE; RENEWAL

Section 1.01. Land. Lessee hereby leases from the Borough and the Borough hereby leases to Lessee, subject to and upon the terms, conditions and undertakings hereinafter set forth, the Land as more fully described in Exhibit A of this Lease (the "Premises"), situate in the Borough of South River, County of Middlesex, State of New Jersey, including, without limitation, the Borough's interest in such land, subject to all rights, powers, licenses, easements, rights-of-way, privileges, hereditaments and franchises now or hereafter situate thereon or appertaining to the land (the "Land").

Section 1.02. Term. The term (the "Term") of this Lease shall commence on the Effective Date and shall end on the date that the PPSA, including any permitted extension thereof, terminates (the "Termination Date"). The maximum Term shall not exceed twenty-five (25) years without the prior written approval of the Borough. Notwithstanding the foregoing, in the event that the PPSA terminates early as a result of a breach of the PPSA by the Borough and Lessee elects to continue to operate the Facility, then this Lease shall continue in full force and effect until the original date that the PPSA, as of its effective date, was scheduled to terminate.

Section 1.03. Rent. The rent hereunder shall be \$1.00 per year, payable on the first day of the Term, and on each anniversary thereof during the Term, provided that the PPSA is in effect. In the event that the PPSA is terminated by the Lessee other than as a result of or due to a breach of the PPSA or this Lease by the Lessor, then the annual rent shall be determined by a certified appraiser selected by the Borough who shall determine the fair market rent for continued use of the Land as a solar site (the "Initial Appraisal"), the cost of which is to be borne by SR Solar I. If the Initial Appraisal is not acceptable to the Lessee, then each Party shall select an appraiser and the two appraisers shall select a third appraiser, each of whom shall provide to the third appraiser an independent appraisal of the Land subject to the use provided by this Lease. The decision of the third appraiser shall be conclusive and binding on the Parties.

Section 1.04. Additional Rent and Taxes.

(a) The term "Taxes" as referred in this Section shall mean (i) all federal, state county and local governmental taxes, assessments and charges of every kind or nature (other than Lessor's income taxes if any), whether general, special, ordinary or extraordinary, that Lessor shall pay or become obligated to pay because of, or in connection with, the ownership, management, control or operation of the Facility, or of the personal property, fixtures, machinery, equipment, systems and apparatus located therein or used in connection therewith (including, but not limited to, any rental or similar taxes, any Lease taxes, and any occupation taxes levied in lieu of, or in addition to, general real and/or personal property taxes); and (ii) any expenses incurred by Lessor in contesting such taxes or assessments and/or the assessed value of the buildings and/or the property of which the Facility and Land are a part. Any special or other assessment or levy that is imposed upon the Premises shall be added to the amount so determined and shall be deemed to be included within the term "Taxes" for the purposes of this Lease.

(b) Any such assessment or levy that shall be payable in installments shall be payable by the Lessee in such installments.

(c) If, at any time during the Term, the methods of taxation prevailing on the date hereof shall be altered, such additional or substitute tax, assessment, levy, imposition, or charge shall be deemed to be included within the term "Taxes" for the purposes hereof. For purposes hereof, Taxes for any year shall be Taxes that are due for payment or paid in that year rather than Taxes that are assessed, become a lien, or accrue during such year.

(d) The Lessee shall pay directly to the applicable taxing authority, one hundred percent (100%) of the Taxes as Additional Rent hereunder, as and when due and demanded of the Lessee by the Lessor, as evidenced by the applicable tax bill or the equivalent; provided, however, that Lessee shall not be obligated to pay any tax assessment, charge or levy assessed by

Lessor which is not generally applicable to other property owners and other business operators; and provided further that in the event that Lessor assesses real or personal property Taxes on Lessee for the parcel of Land containing the Premises, Lessee shall only be responsible for the portion of the parcel actually constituting the Premises pursuant to this Lease.

Section 1.05. Other Costs and Expenses. Lessee shall be solely responsible for municipal water and sewer fees and charges, electricity, gas, water or other utilities used by Lessee for the Facility or otherwise which may be assessed or imposed upon the Premises, or a portion thereof, by the federal, state or local government during the Term.

Section 1.06. Exclusions. Nothing contained herein shall require the Lessee to pay any franchise, corporate, estate, inheritance, succession, capital levy, or transfer tax of the Lessor, if any, or any income, profits or revenue tax, or any other tax, assessment, charge or levy upon the rent payable by Lessee under this Lease, or upon the Lessor's purchase of solar energy from Lessee pursuant to the PPSA.

Section 1.07. Contest. Lessee may bring proceedings, with respect to the Land, for contesting the validity or amount of any Taxes, or to recover payments therefore, and Lessee shall pay for all costs and expenses and shall save the Lessor harmless from all costs and expenses therewith. Lessee need not pay any portion of any Taxes the payment, validity or amount of which it is contesting diligently and by appropriate proceedings, so long as: (i) Lessee is permitted by the taxing authority to post or deposit with the appropriate person or authority a bond or other approved security in an amount not less than the portion being contested; (ii) the Premises is not threatened with sale for non-payment thereof; and (iii) there is no lien on the Premises with respect to unpaid taxes. All costs, fees and expenses incurred in connection with such proceedings shall be borne by Lessee.

ARTICLE II. WARRANTIES AND COVENANTS

Section 2.01. Warranties and Covenants of the Lessor. The Lessor hereby represents, warrants and covenants:

- (a) That the Lease is valid and enforceable against Borough;
- (b) That Lessor shall, during the Term of this lease, perform all of its obligations under the Lease, not commit an event of default under the Lease, nor permit the Lease to be terminated;
- (c) That the Lessor has full power and authority to execute and deliver this Lease, and duly authorized its execution and delivery;
- (d) That except for Permitted Encumbrances, as shown on Exhibit B, to the best of Lessor's knowledge, the Land is exempt from property taxation and there are and shall be no liens, encumbrances, mortgages, restrictions, covenants, easements or conditions, or other title defects of record or otherwise ("Restrictions"), which would adversely affect the title to the Land or the use of the Land by Lessee;

(e) That all Taxes, assessments, or impositions of any kind with respect to the Premises, if any, or payments in lieu thereof, have been paid in full;

(f) That the Lessor makes no warranty or representation, express or implied, as to whether the past uses of the Premises complied with federal, state and local environmental laws;

(g) That the Lessor makes no representations or warranties that the Land is suitable for the use contemplated by the Lessee; and

(h) That if Restrictions are discovered which restrict Lessee's right to use the Land for the purposes set forth herein or to complete necessary hook-ups to utilities, Lessor shall use its best efforts to have such Restrictions released or removed.

Section 2.02. Warranties of the Lessee. The Lessee represents, warrants and covenants:

(a) That it has full power and authority to adopt, enter into, execute and deliver this Lease, and to perform all of its obligations hereunder; and

(b) The Lessee has duly authorized the execution and delivery of this Lease.

Section 2.03. Ownership of Solar Facility and Environmental Attributes. The Facility and all related equipment are not fixtures. Lessee is the exclusive owner and operator of the Facility. Lessor shall have no ownership or other interest in any Facility equipment installed on the Land and Lessee shall at all times retain title to the Facility equipment, with the right, at any time and in its sole discretion, to remove, replace or repair one or more components of Facility equipment. Lessee shall be the exclusive owner of all renewable energy credits and other Environmental Attributes and Environmental Incentives of the Facility. "Environmental Attributes" mean all environmental and other attributes that differentiate the Facility or the energy output from the Facility from energy generated by certain other generation units, fuels or resources, including those attributable to the avoidance of environmental impacts on air, soil or water. "Environmental Incentives" include, but are not limited to, all credits (including tax credits), rebates, benefits, reductions, offsets, and allowances and entitlements of any kind, howsoever entitled, resulting from the Environmental Attributes.

ARTICLE III. OPERATION AND USE

Section 3.01. Quiet Use and Enjoyment. The Lessor covenants, subject to the terms of this Lease, and subject also to the Permitted Encumbrances, that the Lessee, upon performing and observing all other covenants and conditions imposed on it in this Lease, shall peaceably and quietly have, hold and enjoy the Premises free from disturbance by the Lessor, or anyone claiming by, through or under the Lessor.

Section 3.02. Signs. The Lessee shall not place nor allow to be placed any signs of any kind whatsoever, upon, in or about the Premises or any part thereof, except of a design and structure and in or at such places as may be indicated and consented to by the Lessor in writing which consent shall not be unreasonably withheld or delayed. If the Lessor or its agents,

employees or representatives deem it necessary to remove any such signs in order to paint or make any repairs, alterations or improvements in or upon the Premises or any part thereof, they may be so removed, but will be replaced when the said repairs, alterations or improvements are completed. Any signs permitted by the Lessor will at all times conform to all municipal ordinances or other laws and regulations applicable thereto.

Section 3.03. The Lessor's Obligations. The Lessor shall have no obligation for any utility meter, connection and service charges, including those for gas, sewer, electricity, water or standby sprinkler and/or any deposits required by utility suppliers with respect to the Land or Facility. The Lessor shall cooperate with the Lessee in obtaining any easements for utility services, including the execution and delivery of any easement agreements. The Lessor may arrange for and provide such utility and other services to or for the benefit of the Facility as the Lessor deems appropriate and may execute, deliver and record such agreements in furtherance thereof as the Lessor deems appropriate; provided, however, that this Section 3.03 is not intended to modify or otherwise supersede any obligation of the Lessor to cooperate or to provide services as described in the PPSA and any inconsistency between this Section 3.03 and the terms of the PPSA shall be decided in favor of the terms of the PPSA.

Section 3.04. Utilities. The Lessee shall pay when due all the rents or charges for all utilities servicing the Facility, including but not limited to, water, sewer, gas, oil, electric, sprinkler, if any, which are or may be assessed or imposed upon the Facility or which are or may be charged to the Lessor by the suppliers thereof during the Term, and if not paid, such rents or charges will be added to and become payable as Additional Rent within 30 days of demand therefore.

Section 3.05. Use. The Parties acknowledge and agree that the Premises shall be used for the development, construction and operation of a solar electric generating facility with a nameplate rating of approximately 2.3 MWDC and which Facility shall produce solar energy to be sold to the Borough for its direct use. Lessor and Lessee agree that the Facility is a permitted use in the Borough of South River. In the event that the PPSA terminates early as a result of a breach of the PPSA by the Borough and Lessee elects to continue to operate the Facility, then it shall be a permitted use for Lessee to continue to operate the Facility and deliver the solar energy output to the interconnection between the Borough and the PJM system, subject to the tariff then in existence for such use of the Borough's electric distribution system.

Section 3.06. Security. The Lessee shall be permitted to provide any security around the Facility that it deems necessary for the safety of the public and the operation of the Facility, which such security may include, but not be limited to, fencing and locked gates. The Parties shall cooperate as necessary to permit Lessor or its representatives to gain any necessary access to secure portions of the Land.

Section 3.07. No Interference. Lessee shall have the sole and exclusive right to convert all of the solar resources of the Land. Lessor's activities and any grant of rights Lessor makes to any third party relating to the Land shall not interfere in any way with Lessee's use of the Land or the rights granted under this Lease. In furtherance of the foregoing, Lessor shall not interfere with the solar resource or otherwise construct or permit to be constructed any structure that prevents, inhibits or impairs the solar resource, or engage in any activity on the Land or any

adjacent property that could be reasonably calculated to diminish the output or efficiency of the Solar Facility to Lessee's satisfaction, including, without limitation, the construction of structures or planting of trees that would interfere with the free and unobstructed access to solar resources.

ARTICLE IV. SUBLEASING

Section 4.01. Subleasing. The Lessee shall have no right whatsoever to sublease the Land or any portion thereof.

ARTICLE V. EASEMENTS; ADDITIONAL SPACE DURING CONSTRUCTION

Section 5.01. Easements. The Lessor shall grant to Lessee such easements, licenses, rights-of-way or other rights in the Land, in such form and substance as are determined by Lessor and Lessee to be reasonably necessary, including to the extent necessary for hook-ups to applicable utilities:

- (a) for Lessee to construct and maintain the Facility;
- (b) for Lessee to exercise its rights and obligations hereunder; and
- (c) for Lessor to exercise its rights and obligations hereunder.

Section 5.02. Additional Space During Construction. In the event that the Lessee requires land in addition to the Land during the course of construction of the Facility, it shall make a request to the Lessor for such additional rights and Lessor shall grant such temporary rights to allow construction to proceed.

ARTICLE VI. SURRENDER; ASSIGNMENT; CONDEMNATION; FACILITY FINANCING

Section 6.01. Use of the Land. The Lessee shall use the Land solely for the construction and operation of the Facility and for no other purpose whatsoever.

Section 6.02. Surrender of the Land. Upon the termination of this Lease for any reason, the Lessee shall surrender the Premises to Lessor, free and clear of all liens and encumbrances, except Permitted Encumbrances.

Section 6.03. Removal of Lessee's Facility. Upon termination of this Lease, the Lessee shall restore the Land to the same condition as prior to the start of this Lease, reasonable wear and tear excepted, and shall surrender the Land to the Lessor free and clear of all liens and encumbrances except Permitted Encumbrances. Upon termination of this Lease for any reason or upon Lessee's desertion, vacation, abandonment of or eviction from the Land, this Lease shall remain in effect for an extended period of nine (9) months to permit Lessee to remove the Facility and all of its personal property, including equipment, fixtures, goods or other personal property maintained within or on the Premises. If the Facility and any equipment, fixtures,

goods or other property of Lessee are not removed within the said nine (9) month extension, they shall be considered abandoned, and Lessor shall have the right, without any notice to Lessee, to sell or otherwise dispose of the same, at the expense of Lessee, and shall not be accountable to Lessee for any part of the proceeds of such sale or for damages to said personal property incurred prior to Lessee's removal of such property; provided, however, that if, pursuant to the terms of the PPSA, Lessor elects to take title to the Facility at the end of the PPSA, Lessee shall be obligated to transfer title to the Facility to Lessor as described in the PPSA and Lessee's obligations to remove the Facility as described in this Section 6.03 shall be null and void.

Section 6.04. Assignment. Lessee may not assign this Lease without the Lessor's prior written consent which consent shall not be unreasonably withheld or delayed; provided, however, that Lessee may assign, transfer, mortgage or pledge its interest in this Lease as security for any obligation secured by any indenture, mortgage or similar lien on its assets, without limitation on the right of the secured party to further assign this Lease, including the assignment to create a security interest for the benefit of the third party. Lessee specifically acknowledges that any such assignment, transfer, mortgage or pledge of its interest in this Lease is limited to the Facility and Lessee's fixtures, personal property and effects pertaining thereto, and shall not include any ownership interest in the Land. Lessor shall take such actions as Lessee may reasonably request in connection with an assignment for security purposes, including delivery of its written consent to such assignment and other documentation reasonably acceptable to lenders; and provided, further, that Lessee shall be permitted to assign this Lease to the assignee of the PPSA if and as such assignment is permitted under the PPSA, provided that Lessee remains fully responsible for all of its covenants, warranties and obligations under this Lease.

Section 6.05. Condemnation, Eminent Domain. If the Facility or the Land, or any portion thereof, shall be taken under eminent domain or condemnation proceedings, or if suit or other action shall be instituted for the taking or condemnation thereof, and the Lessor terminates the Lease, all of the Parties' rights and obligations hereunder shall be extinguished.

Section 6.06. Facility Financing.

(a) Mortgage by Lessee. Subject to Section 6.04 above, Lessee may, from time to time and at any time, without the consent of Lessor, mortgage and grant a security interest in the Facility and related equipment and Lessee's leasehold (collectively, the "Solar Facility Estate"); provided, however, that the mortgage can only be granted to a creditor that is also receiving a security interest in the Solar Facility. Each holder of any such lien, as to which Lessor has been notified of identity and address, is hereinafter referred to as a "**Solar Facility Mortgagee.**" Nothing herein shall be deemed to permit a Solar Facility Mortgagee to take title to, or otherwise encumber, Lessor's fee title to the Land.

(b) Rights.

i. A Solar Facility Mortgagee or its assigns may enforce its lien and acquire title to the Solar Facility Estate in any lawful way. Pending foreclosure of such lien, any Solar Facility Mortgagee may take possession of and operate the Solar Facility Estate. Upon foreclosure of such lien by power of sale, judicial foreclosure or acquisition of the Solar Facility

Estate by deed in lieu of foreclosure, a Solar Facility Mortgagee may, upon notice to Lessor, sell and assign the Solar Facility Estate to a party acceptable to Lessor in the exercise of its reasonable discretion.

ii. During the period that a Solar Facility Mortgagee may be in possession of the Solar Facility Estate and/or during the pendency of any foreclosure proceedings instituted by a Solar Facility Mortgagee, the Solar Facility Mortgagee shall pay or cause to be paid all rent and other charges payable by Lessee which have accrued and are unpaid during said period and in the event the electrical production of the Solar Facility is disrupted or suspended, the Solar Facility Mortgagee shall also pay or cause to be paid all rent and other charges payable by Borough under the Lease which have accrued and are unpaid during said period. Following the acquisition of the Solar Facility Estate by a Solar Facility Mortgagee or its designee as set forth above, the Solar Facility Mortgagee or other person acquiring title to the Solar Facility Estate shall (i) cure all defaults by Lessee as to payment of rent, and (ii) assume and commence performance of all of Lessee's obligations under this Lease thereafter arising, whereon Lessor's right to terminate this Lease based upon the default in question shall be deemed waived.

(c) Notice. When giving notice to Lessee of any default by Lessee under this Lease, Lessor shall also serve a copy of such notice upon each Solar Facility Mortgagee.

(d) Right to Cure.

i. Each Solar Facility Mortgagee shall have the right to cure any default by Lessee (i) within thirty (30) days after receipt of the notice referenced above, if the default is in the payment of rent or is otherwise reasonably curable within such 30-day period, or (ii) within such longer period (not to exceed 90 days in total) as may reasonably be necessary to cure such default, if such default is not reasonably curable within 30 days, provided that the cure is commenced within such 30-day period and thereafter diligently continued to completion. Lessor shall accept such cure and performance as though the same had been done or performed by Lessee. Any Solar Facility Mortgagee shall have the right to do any act or thing required to be performed by Lessee or any assignee under this Lease, and such act or thing performed by a Solar Facility Mortgagee shall be effective to prevent a default under this Lease as if done by Lessee or the assignee itself. No Solar Facility Mortgagee shall have liability for any act or omission by Lessee under this Lease.

ii. The time available to a Solar Facility Mortgagee to cure any default by Lessee shall be extended by (i) such number of days as may be necessary for such Solar Facility Mortgagee to obtain a receiver, or to initiate and complete foreclosure proceedings, if possession of the Land is necessary to cure such default, and (ii) the number of days of delay occasioned by bankruptcy stay or other judicial restriction against such remedies or occasioned by other circumstances beyond such Solar Facility Mortgagee's reasonable control.

(e) New Lease to Solar Facility Mortgagee. If this Lease is terminated by Lessor on account of any default by Lessee that was not susceptible to cure by the Solar Facility Mortgagee, then Lessor shall give prompt written notice thereof to each Solar Facility Mortgagee. Each Solar Facility Mortgagee, within sixty (60) days after receipt of written notice from Lessor, shall have the right to elect to enter into a new lease of the Land as described

below. Within thirty (30) days after receiving written request therefor from a Solar Facility Mortgagee, Lessor shall execute and deliver a new lease of the Land to such Solar Facility Mortgagee, its nominee or to their purchaser, assignee or transferee, as the case may be, for the remainder of the Term of this Lease, containing the same covenants, agreements, terms, provisions and limitations as are contained in this Lease (other than those requirements which may have been satisfied or fulfilled by Lessee prior to the termination of this Lease), provided that the relevant Solar Facility Mortgagee shall pay to Lessor, simultaneously with the delivery of such new lease, all unpaid rent due under this Lease up to and including the date of the commencement of the term of such new lease, provided further that the nominee, purchaser, assignee or transferee is acceptable to Lessor in the exercise of its reasonable discretion.

(f) In the event that Lessee seeks to further assign its rights in connection with financing of the Solar Facility and the Solar Facility Mortgagee requests modifications to this Lease, Lessor agrees to cooperate with such further Lease modifications, provided that such modifications do not change Lessor's rights under this Lease.

ARTICLE VII. INDEMNIFICATION

Section 7.01. Indemnification by Lessee.

(a) Lessee agrees, at its expense, to indemnify, protect, defend and hold Lessor, its officers and directors, and employees, in their official and personal capacities, and their agents and representatives ("Lessor Indemnified Parties") harmless from and against (i) all liability, losses, damages, demands, costs, claims, lawsuits, administrative proceedings, fines, penalties, and expenses (including reasonable attorneys' fees and court costs) of every kind arising from Lessee's use, possession, conduct, management, planning, design, construction, installation, repair, or financing of the Facility and Land, including, but not limited to, the death of any person or any accident, injury, loss, and damage to any person or to the property of any person which shall occur on or in or adjacent to the Facility and Land to the extent that it results from any negligence or willful misconduct of Lessee, its agents, employees, or contractors, but excluding damage, liability, costs and expenses to the extent that same may result from negligence or willful misconduct of the Lessor Indemnified Parties.

(b) Lessee shall defend, indemnify and hold harmless the Lessor Indemnified Parties from (i) any claims, investigations, liability, loss, injury, damage, remediation costs, lawsuits, civil proceedings, fines, penalties, and expenses including reasonable attorneys fees and disbursements ("Liabilities") which result, wholly or partially, from the performance or failure or delay of performance by Lessee of its obligations under this Lease; (ii) claims arising out of any bodily injury or property damage that may occur in or on the Facility or Land during the term of this Lease; provided, however, that such indemnity shall not include the actions or inactions of third-parties over whom Lessee does not exercise control, as long as Lessee maintains and enforces reasonable security measures and appropriate liability insurance to protect against such actions or inactions.

Section 7.02. Indemnification by Lessor. Lessor agrees, at its expense, to indemnify, protect, defend and hold Lessee, its officers and directors, and employees, in their

official and personal capacities, and its agents and representatives (“Lessee Indemnified Parties”) harmless from and against all liability, losses, damages, demands, costs, claims, lawsuits, administrative proceedings, fines, penalties, and expenses (including reasonable attorneys’ fees and court costs) of every kind to the extent that it arises from any negligence or willful misconduct of Lessor, its agents, employees, or contractors.

Section 7.03. Survival. The indemnity provided by each Party under Section 7.01 and Section 7.02 shall survive the termination of this Lease.

ARTICLE VIII. INSURANCE

Section 8.01. Insurance. Lessee’s policies shall be written to apply to bodily injury, property damage, personal injury and other covered loss, occurring during the Term; endorsed to add Lessor as additional insureds; and state that the coverage shall be primary and that any insurance maintained by Lessor shall be excess insurance only.

(a) Liability Coverage. During the Term, Lessee shall keep in place general liability insurance (including comprehensive automobile liability and non-owned and hired automobile liability with the same coverage limits set forth below) covering Lessee against any claims arising out of liability for bodily injury and death and personal injury and advertising injury and third party property damage occurring in and about the Premises, and otherwise resulting from any acts and operations of the Lessee, its agents and employees at coverage levels not less than the total limits of \$2,000,000.00 per occurrence and \$5,000,000.00 annual general aggregate, and in such other amounts as may be required by New Jersey law as may be changed from time to time. Such insurance shall include, *inter alia*: (i) “claims made” policy forms only when the retroactive date of such insurance predates the inception of this Lease; (ii) any and all liability assumed by the Lessee under the terms of this Lease, to the extent such insurance is available; (iii) premises completed-operations coverage; (iv) the Lessor and any other parties designated by Lessor shall be designated as Additional Insured(s) with respect to (a) the Land and Facility, and (b) all covered operations of the Lessee, and (c) any property and areas and facilities of the Lessor used by the Lessee, its employees, invitees, customers or guests; and (d) severability of insured parties and cross-liability so that the protection of such insurance shall be afforded to the Lessor in the same manner as if separate policies had been issued to each of the insured parties.

(b) Workers’ Compensation Coverage. Workers’ compensation shall, if applicable, be maintained at the levels required by New Jersey law.

(c) Environmental Coverage. Lessee shall maintain environmental insurance in the amount of at least \$10 million per occurrence for environmental damage, incident, or liability. This coverage may be maintained as part of the excess general liability coverage required above and subject to the current \$2,000,000.00 retention.

(d) Other Coverage. Such other policy or policies as are either: (i) reasonably required of the Lessor by any mortgagee or any other party having any interest in the Premises; or (ii) required by insurers by reasons of a change in Lessee’s use of, or activities at, the Land. Any such other coverage requirement shall be disclosed prior to the acceptance of this Lease.

(e) All insurance policies required under this Section shall: (i) be issued by companies having the rating of not less than A as most recently rated by A. M. Best & Lessee, or similar rating institution; (ii) not be subject to cancellation or material change or non-renewal without at least thirty (30) days' prior written notice to Lessor and any other parties designated by Lessor (A) to be additional insured(s) under the insurance policies required from Lessee, or (B) to receive such notices; and (iii) be deemed to be primary insurance in relation to any other insurance maintained by the Lessor. If the Lessee fails to submit such policies or certificates to the Lessor within the specified time, or otherwise fails to obtain and maintain insurance coverages in accordance with this Section, then the Lessor, at the Lessor's sole option, may, but shall not be obligated to, procure such insurance on behalf of, and at the expense of, the Lessee, and if the Lessor exercises such right and spends any funds to obtain such insurance, the Lessee shall reimburse the Lessor for such amounts upon demand, it being understood that any such sums for which the Lessee is required to reimburse the Lessor shall constitute Additional Rent under this Lease. Such a failure shall constitute a default hereunder, and such default shall not be cured by the Lessor's election to procure insurance on the Lessee's behalf. Compliance in whole or in part by the Lessee with any requirement of this Section shall not be deemed to limit, in any way or to any extent, the liabilities or obligations of the Lessee to the Lessor under the specific terms of this Lease.

(f) All insurance policies required by this Section shall be non-assessable and shall contain language to the effect that (a) the policies are primary and noncontributing with any insurance that may be carried by Lessor; (b) the policies cannot be canceled or materially changed except after thirty (30) days written notice by the insurer to Lessor.

Section 8.02. Condition Precedent. As a condition precedent to Lessor's obligations under this Lease, Lessee shall produce evidence of the insurance coverage required hereunder to Lessor on or prior to the Effective Date hereof.

ARTICLE IX. ENVIRONMENTAL COMPLIANCE

Section 9.01. Hazardous Substances. As used herein, Hazardous Substances means any hazardous or toxic substances, materials or wastes defined, listed, classified or regulated as such in, under or pursuant to any federal, state and local laws and regulations, as they may be amended, rules or regulations concerning the environment, pollution, protection of or harm to human or animal health or safety or the environment or nature resources ("Environmental Laws"). Such term shall include any matter giving rise to liability under the Resources Conservation Recovery Act ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the New Jersey Industrial Site Recovery Act ("ISRA"), or any of the regulations, orders and determinations of the New Jersey Department of Environmental Protection ("NJDEP"), or any common law theory based on nuisance or strict liability; or any other chemical, material, gas, or substance, exposure to or release of which is prohibited, limited, or regulated by any governmental or quasi-governmental entity or authority that asserts or may assert jurisdiction over the Land or Facility or the operations or activity at the Facility.

Section 9.02. Lessee Obligations.

(a) The Lessee shall, at its own cost, comply with all laws (federal, state or local) relating to its use of hazardous substance, including, but not limited to, RCRA, CERCLA, ISRA and all governmental authorities, including but not limited to NJDEP. After the Effective Date, the Lessee shall promptly provide the Lessor with copies of all communications, submissions, permits or agreements with any governmental authority or agency (federal, state or local) relating in any way to the presence, release, threat of release, placement on, in, or about the Premises or the generation, transportation, storage, treatment, or disposal on, in, or about the Facility or Land, of any hazardous substance.

(b) The Lessee shall provide a complete copy of the Phase I Environmental Site Assessment to Lessor within five (5) days from the date that it is delivered to the Lessee. Lessor reserves the right to terminate this Lease without liability within ten (10) days of the receipt of the Phase I Environmental Site Assessment.

(c) The Lessor, shall have the right, upon reasonable advance notice to the Lessee, to enter the Premises and/or conduct appropriate tests for the purposes of ascertaining that the Lessee complies with all applicable laws, rules or permits relating in any way to the presence of hazardous substances on, in, or about the Premises and in the event that the Lessor has reasonable basis to believe that there is the presence, release, threat of release, placement on, in, or about the Premises or the generation, transportation, storage, treatment, or disposal on, in, or about the Premises or any portion thereof, of hazardous substance, resulting from Lessee's business or use or occupancy thereof, and upon written request by Lessor, Lessee shall provide Lessor with the results of appropriate tests of air, water or soil to demonstrate that the Lessee complies with all applicable laws, rules or permits relating in any way to the presence of hazardous substances on, in, or about the Premises or any portion thereof.

(d) If the presence, release, threat of release, placement on, in, or about the Premises or any portion thereof, or the generation, transportation, storage, treatment, or disposal on, in, or about the Premises or any portion thereof of any hazardous substance resulting from the Lessee's business or use or occupancy thereof: (i) gives rise to liability (including, but not limited to, a response action, remedial action, or removal action) under RCRA, CERCLA, ISRA, or respecting NJDEP, or any common law theory based on nuisance or strict liability, (ii) causes an adverse public health effect, or (iii) pollutes, or threatens to pollute, the environment, the Lessee shall promptly take, at the Lessee's sole cost and expense, any and all remedial and removal action necessary to clean up the Premises or any portion thereof or the property of the Lessor and mitigate exposure to liability arising from the hazardous substance, whether or not required by law. Nothing in this Article IX imposes or shall be interpreted to impose on Lessee any obligations with respect to any preexisting hazardous substances on the Land or Lessor's compliance or noncompliance with Environmental Laws on the Land at any time prior to the Effective Date of this Lease. Lessee's obligations under this Section shall survive the termination of this Lease for any reason.

(e) Should the NJDEP determine that a cleanup plan must be prepared and that a cleanup must be undertaken because of any spills or discharges of a hazardous substance on, in, or about the Premises which occurred during the Term and caused by the Lessee or any of its agents or subcontractors, then Lessee shall, at Lessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

(f) Additionally, the Lessee agrees to make any applications necessary pursuant to ISRA at least nine (9) months prior to closing, terminating or transferring its operations at the Premises or the Termination Date. At no expense to the Lessor, the Lessee shall promptly provide the Lessor with copies of all Lessee's documentation and written communications submitted to the NJDEP and every other governmental authority respecting environmental matters.

Section 9.03. Indemnification by Lessee. The Lessee shall indemnify, defend and save harmless Lessor from all losses, costs, damages, fines, suits, proceedings, claims and actions of any kind arising out of or in any way connected with any spills or discharges of Hazardous Materials at the Facility or on the Land which occur during the Term in breach of the Lessee's obligation as set forth in Section 9.02. Nothing contained herein shall preclude the Lessee's right to contest, by appropriate proceedings, the validity, or applicability to the Premises, of any law or requirement of any public authority, or direction of any public officer. Lessor, at the Lessee's sole cost and expense, shall cooperate fully with the Lessee in any environmental action taken by or against the Lessee with respect to the Land in furtherance of the Lessee's obligations under Section 9.02, including without limitation, executing and delivering to the Lessee any submissions to, providing information to, and complying with all requirements of, the New Jersey Department of Environmental Protection and permitting Lessee to enter onto the Land after the Termination Date to perform any required remediation work.

Section 9.04. Indemnification by Lessor. The Lessor shall indemnify, defend and save harmless Lessee from all losses, costs, damages, fines, suits, proceedings, claims and actions of any kind arising out of or in any way connected with any spills or discharges of Hazardous Materials on the Land which occurred prior to or subsequent to the Term. Nothing contained herein shall preclude the Lessor's right to contest, by appropriate proceedings, the validity, or applicability to the Land, of any law or requirement of any public authority, or direction of any public officer. Lessee, at the Lessor's sole cost and expense, shall cooperate fully with the Lessor in any environmental action taken by or against the Lessor with respect to the Land, including without limitation, executing and delivering to the Lessor any submissions to, providing information to, and complying with all requirements of, the New Jersey Department of Environmental Protection and permitting Lessor to enter onto the Land during the Term to perform any required remediation work, provided that Lessor's remediation during the Term shall not interfere in any respect with the operation of the Facility.

Section 9.05. Survival. The provisions of this Article IX shall survive the expiration or termination of this Lease.

ARTICLE X. COMPLIANCE WITH GOVERNMENTAL ORDERS

Section 10.01. Government Orders. Lessee, at no expense to Lessor, shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the federal, state and local governments and of any and all other departments and bureaus applicable to the Lessee's use of the Land or to the construction and operation of the Facility, whether ordinary, extraordinary, foreseen or unforeseen. In addition, Lessee, at its own expense, shall comply promptly with and execute all rules, orders, regulations and

recommendations of the Board of Fire Underwriters Rating Board, and Lessor's and Lessee's insurance companies, with respect to the prevention of fires and the exposure of liability risks with respect to Lessee's use of the Land and Facility.

Upon Lessee's written request, Lessor shall execute and deliver any documents or instruments reasonably required to obtain such permits, consents, certificates and approvals as may be necessary for Lessee's financing and development of the Premises, provided that (i) Lessee shall reimburse Lessor from all costs and expenses incurred in connection therewith; (ii) such documents or instruments do not impose any liability or obligation on Lessor beyond those arising under this Lease, or vary or modify the rights and obligations of the Parties under this Lease, or adversely affect Lessor in any way not contemplated by this Lease.

ARTICLE XI. EVENTS OF DEFAULT

Section 11.01. Termination Due to Event of Default.

(a) Lessor Event of Default. If an event specified in Section 11.02 (an "Event of Default") occurs with respect to Lessor, then the Lessee may terminate this Lease upon thirty (30) days' written notice to Lessor and, if Lessor fails to cure such Event of Default within such thirty (30) day period Lessee may terminate this Lease and Lessee will be entitled to all available remedies at law or in equity, except as expressly limited by this Lease (including Section 12.13).

(b) Lessee Event of Default. If an Event of Default specified in Section 11.02 occurs with respect to Lessee, then the Lessor, without waiving any other rights available to it at law or in equity, except as expressly limited by this Lease (including Section 12.13) may either (i) give the Lessee thirty (30) days' written notice of termination of this Lease or (ii) without terminating this Lease, give the Lessee notice of the Lessor's intention to re-enter and take possession of the Land, pursuant to legal process. The giving of either of such notices to the Lessee shall precede the termination of the Lessee's right to possession of the Land under this Lease, and give rise to the rights of the Lessor to exercise all other available legal remedies without discharging the Lessee from any of its liabilities or obligations hereunder, except those that cannot be satisfied in the absence of possession of the Land by the Lessee.

Section 11.02. Event of Default. The occurrence of any of the following events shall constitute an Event of Default:

(a) Default. If a Party fails to perform any covenant set forth in this Lease (other than obligations that are otherwise specifically covered in this Section 11.02), or in the PPSA, and the failure to perform is not cured within 60 days after the Non-Defaulting Party notifies the Defaulting Party of the failure, the Lease shall be terminated. Notwithstanding the foregoing, in the event that the PPSA terminates early as a result of a breach of the PPSA by the Borough and Lessee elects to continue to operate the Facility, then this Lease shall not be terminated and shall continue in full force and effect until the original date that the PPSA, as of its effective date, was scheduled to terminate. In the event that the failure to perform cannot be cured with reasonable due diligence within the 60-day period, and the Party has commenced and is continuing to attempt to effect a cure, an Event of Default shall not be deemed to have occurred until the

expiration of such longer period as may be reasonably necessary to complete the cure, but in no event shall such longer period exceed an additional 60 days.

(b) Bankruptcy and Insolvency. A Party shall be in default of this Lease in the event a Party

- (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (ii) becomes insolvent or is unable to pay its debts or fails, or admits in writing its inability, generally to pay its debts as they become due;
- (iii) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (x) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (y) is not dismissed, discharged, stayed or restrained in each case within 90 days of the institution or presentation thereof;
- (iv) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (v) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (vi) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets;
- (vii) causes or is subject to any event with respect to it, which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) through (vii) (inclusive); or
- (viii) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

Section 11.03. Lessee Right to Cure. Lessee shall have the right to cure any default by Lessor (i) within thirty (30) days after receipt of the notice referenced above, if the default is in the payment of rent or is otherwise reasonably curable within such 30-day period, or (ii) within such longer period (not to exceed 90 days in total) as may reasonably be necessary to cure such default, if such default is not reasonably curable within 30 days, provided that the cure is commenced within such 30-day period and thereafter diligently continued to completion.

**ARTICLE XII.
MISCELLANEOUS**

Section 12.01. Amendments. The parties hereto from time to time, may amend this Lease in writing as may be necessary. Without limiting the generality of the foregoing, this Lease may be amended or supplemented concurrently with an extension of the term of the PPSA; provided, however, that no changes to this Lease shall be binding unless they are set forth in a writing signed by both Parties

Section 12.02. Severability. If any term or provision of this Lease, or the application thereof to any person or circumstances shall, to any extent, be deemed invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 12.03. Independent Principal. The Lessee shall at all times act as an independent principal and not as an agent or employee of the Lessor. The Lessee shall not enter into any agreements or commitments on behalf of the Lessor.

Section 12.04. Waiver. The waiver by either party of any breach of this Lease shall not be deemed to be a waiver of a subsequent breach of the same or any other covenant, condition or term of this Lease.

Section 12.05. Entire Agreement. This Lease contains the Parties' entire agreement and no representations, inducements, promises or agreements, oral or otherwise, not embodied herein, shall be of any force or effect.

Section 12.06. Notices and Demands. Any notice, demand or other communication under this Lease by either party to the other shall be sufficiently given or delivered if in writing and dispatched by registered or certified mail, postage prepaid and return receipt requested, or delivered personally:

If to the Lessor: Borough of South River Business Administrator

South River, New Jersey 08___

with a copy to: Borough Solicitor

South River, New Jersey 08360

If to the Lessee: South River Solar I, LLC
Attn: Andrew W. Welty
1875 I Street NW
Washington, DC 20006

With a copy to:

Stephen J. Humes, Esq.
Holland & Knight LLP
31 West 52nd Street
New York, NY 10019

or at such other address with respect to which any party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 12.07. Mutual Waiver of Subrogation. Each party hereto hereby waives any and all claims which arise or which may arise in its favor and against the other party hereto during the term of this Lease or any extension or renewal thereof for any and all loss of, or damage to, any of its property located within or upon or constituting a part of the Facility, to the extent that such loss or damage is recovered under an insurance policy or policies and to the extent such policy or policies contain provision permitting such waiver of claims. Each Party agrees to request its insurers to issue policies containing such provisions and if any extra premium is payable therefore, the party which would benefit from the provision shall have the option to pay such additional premium in order to obtain such benefit.

Section 12.08. Successors and Assigns. This Lease shall inure to the benefit of and shall be binding upon the Lessee and the Lessor and their respective successors and assigns.

Section 12.09. Counterparts. This Lease may be executed in counterparts, each of which shall constitute original documents, but all of which together shall constitute one and the same instrument.

Section 12.10. Applicable Law. This Lease shall be interpreted and enforced in accordance with the laws of New Jersey.

Section 12.11. Headings. The headings of the several sections hereof are inserted for convenience only and shall not control or affect the interpretation of the provisions hereof.

Section 12.12. Force Majeure. If a Party shall be delayed, hindered in or prevented from the performance of any acts required hereunder, other than the payment of Rent, by reason of Force Majeure, then performance of such acts shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equal to the period of such delay. Force Majeure shall be defined as any cause beyond a party's reasonable control, including Acts of God, strikes, blackouts, failure of power, labor troubles, shortage of materials or services, governmental preemption in connection with a national or local emergency, riots, insurrection, the act or failure to act of the other party, or by reason of any rule, order or regulation of any governmental agency or by reason of the conditions of supply and demand which have been or are affected by war, hostilities or similar emergency.

Section 12.13. Limitation of Liabilities. Neither Party will be liable to the other for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort, or in contract. This limitation does not limit an

indemnifying Party's obligation under Article IX. The provisions of this Section 12.13 shall survive the termination of this Lease.

Section 12.14. Gender. In all references herein to any parties, persons, entities or corporations the use of any particular gender or the plural or singular member is intended to include the appropriate gender or number as the text of the within instrument may require. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties hereto, and their heirs, executors, administrators, personal or legal representatives, successors and assigns.

Section 12.15. Dispute Resolution. The Parties agree to first attempt to settle any dispute arising out of or in connection with this Lease by good-faith negotiation. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Lease, such dispute shall be resolved by binding arbitration before a single arbitrator in Trenton, NJ under the commercial rules of the American Arbitration Association. The arbitrator shall have experience with leasing public land and be recommended by the American Arbitration Association to the Parties. If a recommended arbitrator is not acceptable to one of the parties, the American Arbitration Association shall recommend another arbitrator. If the second recommendation is not acceptable, a third recommendation will be presented and appointed, subject only to rejection by a party if there is a direct conflict of interest. The cure periods for any alleged default(s) under this Lease disputed in good faith by Lessee shall be tolled until arbitration of the dispute is completed and the period for any appeal has lapsed.

Section 12.16. Waiver of Nuisance. Lessor has been informed by Lessee and understands that the presence and operations of the Facility on the Land could potentially result in some nuisance to Lessor, such as higher noise levels than currently occur at the Land and visual impacts. Such notice to Lessor regarding the existence of such nuisances shall not constitute a waiver of any right Lessor may have to object to such nuisances.

Section 12.17. Memorandum of Lease. Lessor and Lessee shall execute a memorandum of this Lease in form and substance satisfactory to Lessee, or an amendment to any such memorandum, which Lessee shall record, at its sole expense, in the real property records of the county where the Land are located. In the event of any inconsistency between the terms and provisions of this Lease and those contained in such Memorandum of Lease, the terms and provisions of this Lease shall control. Lessor further consents to the recordation of the interest of any Solar Facility Mortgagee or assignee of Lessee's interest in this Lease.

Section 12.18. Further Assurances. The Parties hereby agree to the extent necessary to take such further action and execute further documents to implement the intent of the Parties set forth in this Lease and the PPSA.

Section 12.19. Condition Precedent. The rights under this Lease shall not attach until the Borough of South River and SR Solar I LLC execute a Power Purchase and Sales Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

SOUTH RIVER SOLAR I, LLC

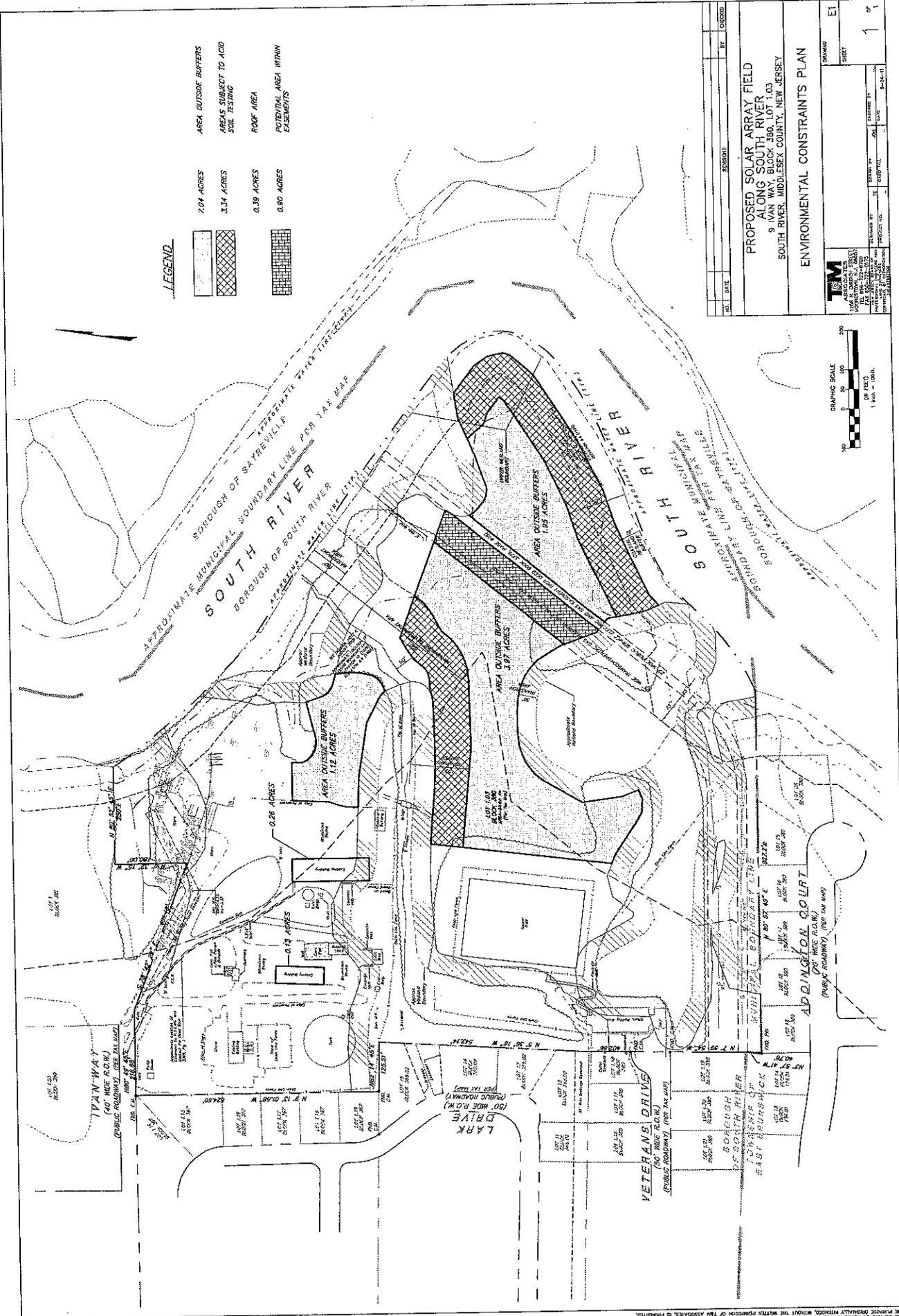
By: _____
Name: _____
Title: _____

BOROUGH OF SOUTH RIVER

By: _____
Name: _____
Title: _____

EXHIBIT A
PLAT AND LEGAL DESCRIPTION OF PREMISES

“A part of block 380 lot 1.03 consisting of approximately 7.04 acres of uplands and another 3.34 of riparian buffer zone for a total of 10.38 acres, as shown on the Environmental constraints plan attached hereto as Exhibit A-1.”



DATE	BY	CHECKED
<p>PROPOSED SOLAR ARRAY FIELD ALONG SOUTH RIVER 9 VAN WAY, ROCK AWAY, NJ 07087 SOUTH RIVER, MIDDLESEX COUNTY, NEW JERSEY</p>		
<p>ENVIRONMENTAL CONSTRAINTS PLAN</p>		
<p>GRAPHIC SCALE 0 50 100 200 FEET 1 inch = 100 feet</p>		<p>PROJECT NO. 1 SHEET 1 OF 1</p>

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EXHIBIT B
TITLE REPORT FOR
PERMITTED ENCUMBRANCES

ORDINANCE 2011-31

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF SOUTH RIVER, CHAPTER 193 ENTITLED "VEHICLES AND TRAFFIC" BY AMENDING SECTION 193-31.1, SCHEDULE IIA "HANDICAPPED PARKING" THEREOF

BE IT ORDAINED by the Mayor and Borough Council of the Borough of South River, that Chapter 193 of the Code of the Borough of South River entitled "Vehicles and Traffic" be amended by amending Section 193-31.1, Schedule IIA as follows:

SECTION 1. Schedule IIA. HANDICAPPED PARKING

Street	Side	Location
Charles St.	North	192' East from intersection of Lincoln Street continuing 21' East

SECTION 2. If any section, paragraph, subdivision, clause of provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 3. All Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. This Ordinance shall take effect after final passage, adoption, and publication according to law.

Dated:

ATTEST:

RAYMOND T. EPPINGER, Mayor

PATRICIA O'CONNOR, Municipal Clerk

**BOROUGH OF SOUTH RIVER
COUNTY OF MIDDLESEX**

BOND ORDINANCE 2011-32

BOND ORDINANCE AMENDING IN PART BOND ORDINANCE NO. 2008-50 ADOPTED ON DECEMBER 23, 2008, AS AMENDED BY BOND ORDINANCE NO. 2009-39 ADOPTED ON SEPTEMBER 14, 2009, PROVIDING FOR THE ACQUISITION OF VARIOUS EQUIPMENT, ROAD IMPROVEMENTS AND VARIOUS OTHER IMPROVEMENTS, IN ORDER TO EXPAND THE SCOPE OF IMPROVEMENTS TO INCLUDE THE ACQUISITION OF A SEWER – JET VACUUM TRUCK, AUTHORIZED IN AND BY THE BOROUGH OF SOUTH RIVER, IN THE COUNTY OF MIDDLESEX, NEW JERSEY

WHEREAS, the Borough of South River, in the County of Middlesex, New Jersey (the "Borough") finally adopted Bond Ordinance No. 2008-50 on December 23, 2008, as amended by Bond Ordinance No. 2009-39 adopted on September 14, 2009 (the "Prior Ordinance"), providing for the Acquisition of Various Equipment, Road Improvements and Various other Improvements, by and in the Borough of South River; and

WHEREAS, the Borough has determined that the project description set forth in the Prior Ordinance needs to be amended, without increasing the aggregate appropriation or debt authorization for said purposes;

NOW, THEREFORE, BE IT ORDAINED by the BOROUGH COUNCIL of the BOROUGH OF SOUTH RIVER, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section One. Section 3(a)(vii) of the Prior Ordinance, are hereby amended to read as follows:

vii) The Annual Road Milling and Paving Program, including the milling and overlay of Roosevelt Street, and the acquisition of a Sewer- Jet Vacuum Truck, with a total appropriation and estimated cost of \$170,000, estimated maximum amount of bonds or notes therefor of \$161,500, and an average period of usefulness of 5 years;

Section Two. The aggregate appropriation of \$1,180,000, and the aggregate debt authorization of \$883,500, and other authorizations set forth in the Prior Ordinance remain unchanged and are hereby confirmed.

Section Three. All ordinances or parts of ordinances in conflict or inconsistent with any of the terms of this ordinance are hereby repealed to the extent that they are in such conflict or are inconsistent. In the event that any section, part or provision of this ordinance shall be held to be unconstitutional or invalid by any court, such holding shall

not affect the validity of this ordinance as a whole, or any part hereof other than the part so held unconstitutional or invalid.

Section Four. This amendatory bond ordinance shall take effect twenty days after the first publication thereof after final passage, as provided in the Local Bond Law, N.J.S.A. 40A:2-1 et seq..

Dated:

ATTEST:

RAYMOND T. EPPINGER, Mayor

PATRICIA O'CONNOR, Municipal Clerk

ORDINANCE 2011-33

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF SOUTH RIVER BY AMENDING CHAPTER 45 ENTITLED "DEPARTMENT OF FINANCE" BY ADDING A NEW ARTICLE XII ENTITLED "PARKING UTILITY" THERETO

BE IT ORDAINED by the Mayor and Borough Council of the Borough of South River, that Chapter 45 of the Code of the Borough of South River entitled "Department of Finance" be amended by adding a new Article XII entitled "Parking Utility":

SECTION 1.

45-54.

ARTICLE XII Parking Utility

Within the Department of Finance there is hereby created a Parking Utility. The Parking Utility, while organized as a separate function and for budgeting purposes, a self-liquidating entity, shall operate within the Finance Department of the Borough. The Parking Utility shall be operated and organized in accordance with NJS 40:60-25.1 and the Code of the Borough of South River. As any department, the Utility shall be ultimately responsible for its administration to the Mayor and Council. The Utility shall be under the direction of the Business Administrator.

The Parking Utility shall be operated as follows:

- A. The Department of Finance shall be responsible for recommending funding required for maintenance, construction and improvement of all capital operations of the Parking Utility.
- B. The Department of Finance shall be responsible for the collection of all fees, investments of monies and all financial operations in conjunction with the administration of public parking within the Borough of South River.
- C. The Parking Utility is authorized to charge and enforce parking rates in accordance with Chapter 155 of the Borough Code.
- D. A monthly permit may be sold for parking at municipal parking lots of the Borough and preference will be given to South River residents subject to rules and regulations to be adopted and implemented by the Parking Utility.
- E. The Collector of Revenue and the Chief Financial Officer shall account for all parking receipts according to existing state law and subject to the annual audit of the Parking Utility.
- F. All moneys received by or on behalf of the Parking Utility shall be paid to the Collector of Revenue, who shall deposit all such receipts within forty-eight (48) hours.
- G. An annual budget shall be prepared in accordance with the statute providing for same.

H. The Parking Utility shall comply with all applicable provisions of the laws of the State of New Jersey.

I. The parking rates as set forth in Chapter 155 and the following provisions for permitted parking shall be enforced by a Parking Enforcement Officer employed by the Parking Utility.

1. Driving the wrong way in parking lots.
2. Parking in a non-authorized area.
3. Parking without payment.
4. Parking without the appropriate permit.
5. Stopping or standing in prohibited areas.
6. Parking across a designated stall.

SECTION 2. If any section, paragraph, subdivision, clause of provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 3. All Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. This Ordinance shall take effect after final passage, adoption, and publication according to law.

Dated:

ATTEST:

RAYMOND T. EPPINGER, Mayor

PATRICIA O'CONNOR, Registered Municipal Clerk

ORDINANCE 2011-34

AN ORDINANCE AMENDING AN ORDINANCE FIXING THE SALARY RANGES OF CERTAIN BOROUGH OFFICERS AND EMPLOYEES IN THE BOROUGH OF SOUTH RIVER

BE IT ORDAINED by the Mayor and Borough Council of the Borough of South River, County of Middlesex and State of New Jersey as follows:

SECTION 1.

An ordinance fixing the salary ranges of certain borough officers and employees in the Borough of South River is hereby amended as follows:

Position	Range		Method of Payment
	From	To	
Parking Enforcement Officer	\$10/hr	\$20/hr	Biweekly
Meter Collector/Repairman	\$10/hr	\$20/hr	Biweekly

SECTION 2. If any section, paragraph, subdivision, clause of provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 3. All Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. This Ordinance shall take effect after final passage, adoption, and publication according to law.

Dated:

ATTEST:

RAYMOND T. EPPINGER, Mayor

PATRICIA O'CONNOR, Registered Municipal Clerk

ORDINANCE 2011-35

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF SOUTH RIVER, CHAPTER 155 ENTITLED "FEES" BY ADDING A NEW SECTION 155-18.2 ENTITLED "PARKING UTILITY"

BE IT ORDAINED by the Mayor and Borough Council of the Borough of South River, that Chapter 155 of the Code of the Borough of South River entitled "Fees" be amended by adding a new section 155-18.2 entitled "Parking Utility" as follows:

SECTION 1.

155-18.2. Chapter 45 Article XII - Parking Utility

Fees for metered or permit parking shall be:

- A) Parking by permit at municipal parking lots:

Fifteen dollars per month (\$15.00)

- B) Meter Parking:

\$.05/per twelve (12) minutes
\$.10/per twenty-four (24) minutes
\$.25/per hour

- C) Replacement fee for lost or destroyed permit: \$5.00

SECTION 2. If any section, paragraph, subdivision, clause of provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 3. All Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. This Ordinance shall take effect after final passage, adoption, and publication according to law.

Dated:

ATTEST:

RAYMOND T. EPPINGER, Mayor

PATRICIA O'CONNOR, Registered Municipal Clerk

MAYOR'S APPOINTMENT

RES:2011-313

SEPTEMBER 28, 2011

RESOLUTION

I, Raymond T. Eppinger, Mayor of the Borough of South River, do hereby appoint the following as member of the Advisory Committee on the Handicapped and Disabled:

Julie Cosentino Term: 1/1/2011 – 12/31/2013

DATED: SEPTEMBER 28, 2011

/s/ _____
Raymond T. Eppinger, Mayor

RESOLUTION

WHEREAS, the official utility records of the Borough of South River, New Jersey show certain refunds which include electric, water and consumer deposits (CD); and

WHEREAS, the Collector of Utility Revenue recommends that the following refunds should be made to the consumer noted herein below listed; and

NOW, THEREFORE BE IT AND IT IS HEREBY RESOLVED by the Borough Council of the Borough of South River that the Collector of Utility Revenue is hereby authorized to make the following refunds and adjustments indicated below and any attached list.

<u>ACCOUNT #</u>	<u>PAYABLE TO:</u>	<u>AMOUNT OF CHECK</u>
65-999-992-520 ELEC CURRENT	PETER ABADIR	\$91.70
66-999-994-422 WTR CURRENT	33 CONSTITUTION WAY SOUTH RIVER, NJ 08882	\$127.21
65-999-877-757 CD	MARIA ALVAREZ 202 WHITEHEAD AVE APT 6 SOUTH RIVER, NJ 08882	\$43.42
65-999-902-375 CD	ANNA KOTTIS P O BOX 47 SOUTH RIVER, NJ 08882	\$6.15
65-999-896-402 CD	PAULO PEREIRA P O BOX 546 SOUTH RIVER, NJ 08882	\$56.26

DATED: SEPTEMBER 28, 2011

/s/ _____
Councilmember

/s/ _____
Councilmember

RESOLUTION

WHEREAS, the Borough of South River maintains bank accounts in all funds of the Borough for checking accounts, statement savings, passbook savings, money market funds and cash management funds; and

WHEREAS, the Chief Financial Officer of the Borough reconciles these accounts on a monthly basis to the books and records of the Borough; and

WHEREAS, there exists reconciling items that relate to the period ending December 31, 2010, and certain checks returned undeliverable in 2011; and

WHEREAS, such items are deemed outdated and stale; and

WHEREAS, generally accepted accounting principals and generally accepted internal control standards require periodic review; and

WHEREAS, the Chief Financial Office of the Borough has performed a review and determined that such action of cancellation be taken as follows:

IMPRESS ACCOUNT

<u>Check No.</u>	<u>Amount</u>
30169	150.18
30443	205.43
30860	14.98
30902	27.89
31126	141.68
31341	19.23
31349	112.21
31529	33.43
31817	17.31
31820	99.02
31837	70.05
31903	34.27
31975	41.33
32015	119.76
32016	72.31
32240	114.69
32449	8.64
32592	136.27
32593	100.00
32608	371.35

Total 1,890.03

Disbursement of Funds:

Current Fund 100.00
Electric Utility 397.83
Consumer Deposit 1,392.20

Total 1,890.03

Animal Control Trust Fund

Amount

Bank Charge

36.00

Total 36.00

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the Chief Financial Officer be authorized to make such adjustments to the books and records.

DATED: SEPTEMBER 28, 2011

/s/ _____
Councilmember

/s/ _____
Councilmember

RESOLUTION

WHEREAS, the Borough of South River owns and operates the South River Electric Utility for the benefit of its citizens; and

WHEREAS, the Borough of South River is constantly seeking ways to provide higher quality services and lower costs to its customers; and

WHEREAS, Federal Energy Policy encourages new opportunities for buying, selling, transmitting, and exchanging capacity and energy that may benefit residents and businesses of South River; and

WHEREAS, new types of energy services and long term power supply agreements that provide opportunities to reduce power supply costs are being offered by electric utilities, qualifying small power production or qualifying cogeneration facilities as defined by 16 U.S.C.s 796 and power marketers; and

WHEREAS, South River Solar I, LLC has submitted an offer to the Borough for various energy and capacity options; and

WHEREAS, South River Solar I is engaged in the business of producing and selling renewable energy products including the installation, operation and maintenance of solar electric generating facilities and wishes to develop, own and operate a 2.3 MW solar electric generating facility in the Borough of South River; and

WHEREAS, upon construction of said facility, the South River Electric Utility desires to purchase, from South River Solar I, LLC up to 2.3 MWs of solar produced electrical energy for the period of twenty-five (25) years; and

WHEREAS, the aforesaid agreements comply with N.J.S.A. 40A:11-5(f) and/or 5(v) and conform to regulations of the United States Federal Energy Regulatory Commission.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of South River as follows:

1. The Mayor and Borough Clerk are hereby authorized and directed to execute the attached interconnection and Power Purchase and Sale agreements with South River Solar I, LLC for energy transactions.
2. The appropriate officials of the Borough or their designee are authorized to undertake energy related transactions in accordance with the terms and conditions set forth in the Purchase Power and Sale Agreement for the period of twenty-five (25) years.

DATED: SEPTEMBER 28, 2011

/s/ _____
Councilmember

/s/ _____
Councilmember

RES:2011-317

SEPTEMBER 28, 2011

RESOLUTION

WHEREAS, pursuant to the applicable Statutes of the State of New Jersey, the Local School District is required to requisition funds for Operating Expense and Debt Service Expense from the Borough; and

WHEREAS, a requisition dated September 7, 2011 has been received from the Local School District for the following amount:

CURRENT OPERATING EXPENSE:	\$1,048,508.00
RESTORED FUNDS:	
DEBT SERVICE EXPENSE:	_____
TOTAL	\$1,048,508.00

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Mayor and Borough Council of the Borough of South River that the Chief Financial Officer is hereby authorized and directed to draw the above stated amount from the proper accounts and pay to the Custodian of the School Monies the amount so drawn pursuant to the applicable Statutes of the State of New Jersey by October 6, 2011.

DATED: SEPTEMBER 28, 2011

/s/ _____
Councilmember

/s/ _____
Councilmember

RESOLUTION

WHEREAS, Tomasina D. Herrera has submitted an application for a Mercantile License for a business known as Caribbean Café Deli & Grocery, LLC to be located at 61 Ferry Street, in the Borough of South River; and

WHEREAS, the nature of the business will be a grocery, café and deli; and

WHEREAS, the Mercantile License application was distributed to the appropriate agencies as provided by Code of the Borough of South River; and

WHEREAS, recommendations for approval have been submitted by all departments investigating same.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Mayor and Borough Council of the Borough of South River that the Mercantile License Application submitted by Tomasina D. Herrera for a business known as Caribbean Café Deli & Grocery, LLC to be located at 61 Ferry Street, in the Borough of South River, New Jersey is hereby approved.

DATED: SEPTEMBER 28, 2011

/s/ _____
Councilmember

/s/ _____
Councilmember

RESOLUTION

WHEREAS, Christina Martinez has submitted an application for a Mercantile License transfer for a business known as El Ranchero Del Sur LLC to be re-located to 396 Whitehead Avenue, in the Borough of South River; and

WHEREAS, the nature of the business continues to be a wholesale cheese distributor; and

WHEREAS, the Mercantile License application was distributed to the appropriate agencies as provided by Code of the Borough of South River; and

WHEREAS, recommendations for approval have been submitted by all departments investigating same.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Mayor and Borough Council of the Borough of South River that the Mercantile License transfer application submitted by Christina Martinez for a business known as El Ranchero Del Sur LLC to be re-located to 396 Whitehead Avenue, in the Borough of South River, New Jersey is hereby approved.

DATED: SEPTEMBER 28, 2011

/s/ _____
Councilmember

/s/ _____
Councilmember

RES:2011-320

SEPTEMBER 28, 2011

RESOLUTION

I, Raymond T. Eppinger, with the advice and consent of the Council of the Borough of South River, do hereby appoint Anthony Delucia as a Probationary Member of the Reliable Fire Company, South River Fire Department of the Borough of South River effective as of this date.

Raymond T. Eppinger, Mayor

DATED: SEPTEMBER 28, 2011

/s/ _____
Councilmember

/s/ _____
Councilmember

RESOLUTION

I, Raymond T. Eppinger, Mayor, with the advice and consent of the Council of the Borough of South River, do hereby appoint the following persons listed below to the position in the Recreation Department effective as of this date:

Basketball/Hockey scorekeepers to be paid at the rate of \$15.00 per game:

- | | |
|--------------------|------------------|
| Dominic Christiano | Charles DiMaggio |
| Lynnette Donkor | Nancy Garcia |
| Alicia James | Jhanzeeb Mughal |
| Casey O'Hara | Zackery Peck |
| Maria Skandalos | Andrew Weiss |

Basketball/Hockey Officials to be paid at \$35.00 per game:

- | | |
|--------------------|-----------------|
| Michael O'Halloran | Marc Lange |
| Dennis Pinto | Kevin Burns |
| Frank Rocca | Daniel Kane |
| Bob Bonfante | Bill Policastro |
| Dan Astarite | Juan Risario |
| Frank Piccillo | Devin Kitchens |
| John Rake | Andrew O'Hara |

Yoga Instructors to be paid at the rate of \$35.00 per session:

Angela Deerson

Zumba Instructor to be paid at the rate of \$35.00 per session:

Jessica Kogut

Aerobics Instructor to be paid at the rate of \$35.00 per session:

Sharon Witkowski

Supervisors/First Aiders/Hall Monitors to be paid at the rate of \$30.00 per game:

Henry Vandebeek

Part Time Recreation Staff to be paid at \$8.50/per hour:

- | | |
|--------------------|------------------|
| Dominic Christiano | Charles DiMaggio |
| Lynnette Donkor | Nancy Garcia |
| Alicia James | Jhanzeeb Mughal |
| Casey O'Hara | Zackery Peck |
| Maria Skandalos | Andrew Weiss |

Part Time Seasonal Program Coordinator to be paid at \$15.28/per hour:

Alexis Rinaldo

DATED: SEPTEMBER 28, 2011

/s/ _____
Raymond T. Eppinger, Mayor

/s/ _____
Councilmember

/s/ _____
Councilmember

RES: 2011-323

SEPTEMBER 28, 2011

RESOLUTION

BE IT AND IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of South River, in the County of Middlesex and the State of New Jersey that all bills, claims and statements against the Borough, in the total amount of \$254,450.55 and previously paid claims in the amount of \$693,705.27, listing attached, have been duly itemized, audited, approved and signed by the proper officers of the Borough, be and the same are hereby ordered paid.

DATED: SEPTEMBER 28, 2011

/s/ _____
Councilmember

/s/ _____
Councilmember

P.O. Type: All
Range: First to Last
Format: Condensed

Open: N Rcvd: Y Paid: N
Held: Y Aprv: N Void: N
Bid: Y State: Y Other: Y

Vendor # Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
76009 BROWN, RAYMOND	11-02428	09/08/11	REIMBURSEMENT	Open	277.76	0.00		
A0128 ADVANCED GENERATOR EXCHANGE	11-02044	07/26/11	Alternator Repairs-BLANKET	Open	464.00	0.00		
A0151 AGIN SIGNS & DESIGNS	11-01496	06/06/11	BAKER 2 LETTERING	Open	100.00	0.00		
	11-02270	08/22/11	TRAILER LETTERING	Open	2,000.00	0.00		

					2,100.00			
A0305 ALLIED OIL COMPANY LLC	11-02450	09/09/11	Fuel Del 08/24/11	Open	14,166.63	0.00		
A0345 AMERICAN POWERNET MGMT. LP	11-02325	08/30/11	Management Fee for August 2011	Open	3,330.00	0.00		
A0353 ALLCOMM TECHNOLOGIES	11-02290	08/25/11	MOBILE MICROPHONE	Open	66.00	0.00		
A0367 AMERICAN PUBLIC WORKS ASSN.	11-02365	08/31/11	Membership-George Lyons	Open	160.00	0.00		
A0434 ANDERSON HOYT IRRIGATION CO, I	11-02215	08/15/11	Grekoski Park Sprinkler Repair	Open	237.50	0.00		
	11-02225	08/15/11	Repair Sprinkler-Grekoski Pk	Open	337.50	0.00		
	11-02229	08/15/11	Repair Sprinkler-Daileys Field	Open	1,004.40	0.00		

					1,579.40			
A0493 APPROVED FIRE PROTECTION	11-02427	09/08/11	REPAIR SCOTT PACKS	Open	543.31	0.00		
A0569 ATLANTIC PLUMBING SUPPLY CORP	11-01987	07/20/11	Repair Corrugated Pipe	Open	53.44	0.00		
A601 APRUZZESE MCDERMOTT MASTRO &	11-02327	08/30/11	General Labor Issues 7-31-2011	Open	502.00	0.00		
	11-02387	09/08/11	July - 2011 0 21379-01-Flores	Open	435.50	0.00		

					937.50			
ABAD01 PETER ABADIR	11-02469	09/13/11	ELECT.& WATER CURR.YR.REFUND	Open	218.91	0.00		
ADP001 ADP, INC.	11-02274	08/22/11	SERVICE FOR PD END 8/13 & 8/14	Open	843.87	0.00		

Vendor # Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
	11-02489	09/13/11	AMI EA ENERGY AXIS MO. 8/11	Open	2,915.00	0.00		
BEL100	BELARUSIAN-AMERICAN CENTER							
	00-41376	12/01/10	Facility rental donations	Open	300.00	0.00		
C1236	CAESARS ATLANTIC CITY							
	11-02013	07/26/11	NJ League Conv 2011 - November	Open	7,473.00	0.00		
C1336	CENTRAL JERSEY SECURITY, CORP.							
	11-01607	06/14/11	INTRUSION ALARM - POLICE DEPT.	Open	750.00	0.00		
C1510	COMCAST							
	11-02468	09/13/11	SERVICE FOR 9/06-10/05/11	Open	263.63	0.00		
	11-02541	09/19/11	SERVICE FOR 9/16-10/15/11	Open	65.41	0.00		

					329.04			
C1518	CONNEY SAFETY PRODUCTS, LLC.							
	11-02322	08/30/11	Rain Pants & Jackets	Open	923.68	0.00		
C1528	CONSOLIDATED RAIL CORP							
	11-02405	09/08/11	LEASE OF PIPE 8/1-7/31/12	Open	200.00	0.00		
C1531	CONFIRE							
	11-02459	09/09/11	EXTINGUISHER VEHICLE BRACKETS	Open	76.00	0.00		
	11-02460	09/09/11	EXTINGUISHER MAINTENANCE	Open	69.00	0.00		

					145.00			
C1538	CONTINENTAL FIRE & SAFETY INC							
	11-02272	08/22/11	HYDRANT TOOL	Open	123.60	0.00		
	11-02311	08/25/11	STREAMLIGHT	Open	118.00	0.00		
	11-02491	09/13/11	NEW EQUIPMENT	Open	227.38	0.00		

					468.98			
C1569	COPPA'S TOWING							
	11-02214	08/15/11	Tow Rescue #545-7/20/11	Open	200.00	0.00		
D1780	DELL COMPUTER CORPORATION							
	11-02217	08/15/11	Cartridges for Printer	Open	921.95	0.00		
D1993	RICHARD DUDAS							
	11-02581	09/22/11	NOTARY RENEWAL EXP 10/12/16	Open	25.00	0.00		
E2036	EAST BRUNSWICK SUPPLY, INC.							
	11-02331	08/30/11	Plumbing Supplies-BLANKET	Open	269.53	0.00		
E2040	TOWNSHIP OF EAST BRUNSWICK							
	11-02545	09/20/11	RADIO COMMUNICATION FOR 10/11	Open	2,818.38	0.00		
F2739	FIRE FIGHTERS EQUIPMENT CO. INC							
	11-02426	09/08/11	FLARES	Open	349.95	0.00		

Vendor # Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
F2751 FARWEST LINE SPECIALTIES,LLC.	11-02367	08/31/11	64P-Hard Hats, WHITE	Open	192.74	0.00		
F2871 FOREMOST FIRE PROTECTION LLC	11-02308	08/25/11	3 CASES OF ROAD FLARES	Open	720.00	0.00		
F2927 DONNA M. FRICKE	11-02378	09/06/11	August Exercise Classes	Open	280.00	0.00		
G3024 GALETON GLOVES, INC	11-01744	06/30/11	Gloves, Safety Goggles, Resp.	Open	770.45	0.00		
GMT001 GMT MANAGEMENT,LLC.	11-02473	09/13/11	REFUND OF ESCROW BAL. #1290	Open	224.00	0.00		
H3547 BOROUGH OF HELMETTA	11-02486	09/13/11	Animal Control 3rd qtr 2011	Open	2,548.82	0.00		
H3605 HEWLETT-PACKARD CO	11-02150	08/09/11	AT489AV-CONFIG.HP CPPAQ 6000PR	Open	921.72	0.00		
H3608 HIGH ENERGY ELECT.TESTING,INC.	11-02319	08/26/11	RENTAL OF GENERATOR	Open	1,650.00	0.00		
	11-02352	08/30/11	PERFORM POWER QUALITY STUDY	Open	1,200.00	0.00		

					2,850.00			
H3719 HOME NEWS TRIBUNE	11-02297	08/25/11	Bond Ord. 2011-28 - Intro	Open	34.02	0.00		
	11-02309	08/25/11	Sewer Jet Vac Bid Notice	Open	31.86	0.00		
	11-02412	09/08/11	Synopsis of 2010 Audit Report	Open	170.10	0.00		
	11-02519	09/16/11	Ord. 2011-29 - Intro	Open	971.73	0.00		

					1,207.71			
H3720 HOME NEWS TRIBUNE	11-02502	09/15/11	September 2011	Open	17.40	0.00		
H3739 HOSE SHOP	11-02368	08/31/11	Hydraulic Hoses	Open	237.60	0.00		
H3803 THE HUDSON WORKWEAR CO., INC.	11-01358	05/31/11	FR Clothing for Alan DeVries	Open	1,270.50	0.00		
I4239 ITS, INC.	11-02158	08/09/11	Troubleshoot Lime Feeder	Open	272.00	0.00		
	11-02481	09/13/11	Troubleshoot well #5	Open	272.00	0.00		

					544.00			
J4694 JOHNNY ON THE SPOT, INC.	11-02379	09/08/11	PORTA JOHN- DAILEYS & GREKOSKI	Open	561.10	0.00		

Vendor # Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
K4917	LAW OFFICE OF JAMES KINNEALLY							
	11-02375	09/06/11	LIEDL,B. #1361	Open	333.50	0.00		
K4981	SAMUEL KLEIN & COMPANY							
	00-41548	12/23/10	2010 AUDIT FEE	Open	66,080.00	0.00		
	00-41550	12/23/10	REQUIRED REVIEW REPORT/LOSAP	Open	1,150.00	0.00		
	00-41551	12/23/10	CONTINUING DISCLOSURE REPORT	Open	1,200.00	0.00		
	11-02525	09/19/11	SINGLE AUDIT YE 12/31/10	Open	750.00	0.00		

					69,180.00			
K4995	KNIGHTS OF COLUMBUS							
	11-02374	09/06/11	Rental Fee for Health Fair10/2	Open	500.00	0.00		
KOT001	ANNA KOTTIS							
	11-02471	09/13/11	CD REFUND	Open	6.15	0.00		
L5256	LINCOLN FINANCIAL GROUP							
	11-02540	09/19/11	GTD, LIFE & ADD FOR 10/11	Open	1,632.54	0.00		
LUB014	FRED LUBCZYNSKI							
	11-00999	04/19/11	Hockey Refund	Open	35.00	0.00		
M5421	W.B.MASON CO.							
	11-01964	07/19/11	Office Supplies	Open	482.07	0.00		
	11-02366	08/31/11	Office Supplies	Open	3,105.23	0.00		

					3,587.30			
M5443	MAIN STREET FLORIST							
	11-02386	09/08/11	wreaths for 9/11 Ceremony	Open	400.00	0.00		
M5708	MIDDLESEX COUNTY TREASURER							
	11-02521	09/19/11	2011 HEALTH AID 3RD QTR. 2011	Open	14,101.75	0.00		
M5775	L-3 COM MOBILE VISION, INC.							
	11-02458	09/09/11	DVD BURNER CARTRIDGE	Open	101.90	0.00		
N6180	NORCIA CORP.							
	11-02208	08/11/11	Parts for Sanitation Trucks	Open	717.45	0.00		
N6190	THOMAS J. NOTO, P.E.							
	11-02421	09/08/11	Elect. Eng Services-August	Open	8,050.00	0.00		
NEVI001	SHERYL NEVIN							
	11-02554	09/21/11	Notary Public - renewal	Open	25.00	0.00		
P7169	PRIME-STRIPE							
	11-02361	08/31/11	Aerosol white Paint Cans	Open	311.30	0.00		
PERE01	PAULO PEREIRA							
	11-02472	09/13/11	CD REFUND	Open	56.26	0.00		

09/26/11
09:31:20

Borough of South River
Bill List By Vendor Id

Page No: 6

Vendor #	Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
R7395	RELIABLE OVERHEAD DOOR INC.	11-02451	09/09/11	Emergency Door Repair 8/29/11	Open	374.00	0.00		
R7431	RICH'S MOWER & LOCKSMITH SHOP	11-02019	07/26/11	Parts for Mowers	Open	614.10	0.00		
R7548	THE RODGERS GROUP,LLC.	11-00008	01/13/11	CUSTOMIZED TRAINING MODULE	Open	448.00	0.00		B
S0008	BOROUGH OF SOUTH RIVER	11-02528	09/19/11	TRANSFER TO PROVIDENT ESCROW	Open	241.50	0.00		
S603	SAYREVILLE PET ADOPTION CENTER	11-02485	09/13/11	Animal Shelter June-July-Aug	Open	2,670.00	0.00		
S7690	SAMS CLUB	11-02388	09/08/11	OOA, Food Bank, NNO	Open	906.24	0.00		
S7720	SAYREVILLE, BORO OF	11-02483	09/13/11	Standby 8/16-8/31/11	Open	2,304.00	0.00		
S7722	SAYREBROOK VETERINARY	11-02176	08/09/11	Consultation Exam -Dog	Open	55.00	0.00		
S8182	STORR TRACTOR CO.	11-02360	08/31/11	white Field Paint #42007	Open	1,464.00	0.00		
S8251	SWIFT ELECTRICAL SUPPLY CO.	11-02050	07/26/11	Electrical Supplies-BLANKET	Open	634.01	0.00		
SIGNS01	SIGNS AND SAFETY DEVICES,LLC	11-02293	08/25/11	10' Green Street Sign Poles	Open	196.50	0.00		
		11-02301	08/25/11	28" REFLECTIVE CONES	Open	963.75	0.00		
		11-02302	08/25/11	DOT Regulated Barrels	Open	969.00	0.00		
						2,129.25			
T5001	TAX COLLECTORS \$ TREAS ASSN NJ	11-02463	09/09/11	TAX SEMINAR OCT 6 2011	Open	25.00	0.00		
T8369	TELX INC	11-02393	09/08/11	PHONE MAINT. 10/1-1/1/12	Open	3,096.00	0.00		
T8387	TELVUE CORPORATION	11-01785	06/30/11	PEG TV FEE 10/1-12/31/11	Open	750.00	0.00		
THEM001	THE MAGICAL SONGWRITER	11-02197	08/11/11	S.R. ELEM.SCHOOL EVENT 10/17	Open	1,000.00	0.00		
U8802	UNIFIRST CORPORATION	11-02286	08/23/11	Uniform Rental 08-23-11	Open	96.15	0.00		
		11-02287	08/23/11	Uniform Rental 08-30-11	Open	96.15	0.00		

09/26/11
09:31:20

Borough of South River
Bill List By Vendor Id

Page No: 7

Vendor # Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
	11-02339	08/30/11	Uniform Rental 09-6-11	Open	96.15	0.00		
	11-02434	09/08/11	Uniform Rental 09-13-11	Open	96.15	0.00		

					384.60			
U8810 UNITED COMPUTER SALES & SVC.IN								
	11-02420	09/08/11	SERVICE FOR 9/11	Open	2,125.00	0.00		
U8909 UTILITY BILLING SERVICES INC								
	11-02417	09/08/11	BILLING FOR 8/11	Open	4,013.88	0.00		
	11-02418	09/08/11	BILLING FOR 8/11	Open	13,540.94	0.00		

					17,554.82			
U8910 UTILITY BILLING SERVICES INC								
	11-02415	09/08/11	BILLING FOR 8/11	Open	238.96	0.00		
	11-02416	09/08/11	BILLING FOR 8/11	Open	588.27	0.00		

					827.23			
V9010 VERIZON								
	11-02595	09/23/11	SERVICE FOR 9/10-10/09/11	Open	4,813.39	0.00		
W9328 WESCO DISTRIBUTION, INC.								
	11-00923	04/07/11	37.5 KVA 120/240 Transformers	Open	17,530.00	0.00		
	11-01795	06/30/11	Power Flood Lights	Open	1,100.00	0.00		

					18,630.00			
W9537 WPCS INTERNATIONAL, INC.								
	11-02380	09/08/11	MOBILE RADIO REPAIR	Open	393.00	0.00		
Y9684 YARDVILLE SUPPLY CO. INC.								
	11-01762	06/30/11	Hydrated Chemical Lime	Open	1,770.00	0.00		
Z9854 LESLIE ZELANKO								
	11-02503	09/15/11	Food Bank Reimbursement	Open	301.81	0.00		
Z9998 ZLATEN ZIFOVSKI								
	11-01761	06/30/11	Supplies-BLANKET	Open	70.92	0.00		
ZANGA01 JOSEPH ZANGA								
	11-02526	09/19/11	REIMB.CFO LIC& TRAVEL TO LFB	Open	64.94	0.00		
Total Purchase Orders: 131 Total P.O. Line Items: 289 Total List Amount:					254,450.55	Total Void Amount:	0.00	

Fund Description	Fund	Budget Rcvd	Budget Held	Budget Total	Revenue Total
CURRENT FUND	0-01	34,075.00	0.00	34,075.00	0.00
WATER UTILITY	0-02	17,020.00	0.00	17,020.00	0.00
ELECTRIC UTILITY	0-03	18,385.00	0.00	18,385.00	0.00
	Year Total:	69,480.00	0.00	69,480.00	0.00
CURRENT FUND	1-01	74,397.89	0.00	74,397.89	0.00
WATER UTILITY	1-02	19,022.33	0.00	19,022.33	0.00
ELECTRIC UTILITY	1-03	79,312.20	0.00	79,312.20	0.00
	1-15	105.83	0.00	105.83	0.00
	Year Total:	172,838.25	0.00	172,838.25	0.00
GENERAL CAPITAL	C-06	1,198.00	0.00	1,198.00	0.00
ESCROW ACCOUNT	E-17	6,025.25	0.00	6,025.25	0.00
OTHER TRUST ACCOUNTS	T-05	4,909.05	0.00	4,909.05	0.00
	Total of All Funds:	254,450.55	0.00	254,450.55	0.00

Wire transfers for pay meeting of 9/28/11

Date	From	Account	Amount	To	Account	Amount	Comment
9/15/2011	PNC Electric Utility Account	8015731646	\$ 23,081.94	PJM Settlement Inc.		\$ 23,081.94	Weekly Elect. Pymt. 9/1-9/7/11
9/15/2011	PNC Payroll Account	8015731865	\$ 100,576.28	State of NJ - Div. of Pensions		\$ 100,576.28	Medical Ins. - active 9/11
9/15/2011	PNC Payroll Account	8015731865	\$ 59,216.44	State of NJ - Div. of Pensions		\$ 59,216.44	Medical Ins. - retired 9/11
9/20/2011	PNC Electric Utility Account	8015731646	\$ 436,315.96	NextEra Energy Power Mktg. LLC		\$ 436,315.96	Monthly pool costs for elect. Dist. 8/11
9/20/2011	PNC Electric Utility Account	8015731646	\$ 48,171.20	PPL EnergyPlus, LLC.		\$ 48,171.20	Monthly elect. Pymt. 8/11
9/20/2011	PNC Electric Utility Account	8015731646	\$ 25,097.60	PSE&G Energy Resources & Trading, LLC.		\$ 25,097.60	Monthly elect. Pymt. 8/11
9/21/2011	PNC Electric Utility Account	8015731646	\$ 1,245.85	PNC Current Account	8013657761	\$ 1,245.85	Transfer cleanup charges from elect.
			\$ 693,705.27			\$ 693,705.27	

**POWER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN
SOUTH RIVER SOLAR I, LLC
AND
THE BOROUGH OF SOUTH RIVER, NEW JERSEY**

THIS POWER PURCHASE AND SALE AGREEMENT (the “**Agreement**”), dated as of _____, 2011, by and between South River Solar I, LLC, a New Jersey limited liability company having an address at 1875 I Street NW, Washington, DC 20006 (“**Seller**”), and the Borough of South River, New Jersey, a municipal corporation of the State of New Jersey, having an address at 48 Washington Street, South River, New Jersey 08882 (the “**Borough**” or “**Buyer**”).

WITNESSETH

WHEREAS, Seller is engaged in the business of producing and selling renewable energy products including the installation, operation and maintenance of solar electric generating facilities; and

WHEREAS, Buyer is a municipality of the State of New Jersey which owns and operates an electric utility; and

WHEREAS, Seller wishes to develop, own and operate an approximately 2.3 MWDC solar electric generating facility (the “**Facility**”) to be located in South River, New Jersey; and

WHEREAS, Seller wishes to sell and Buyer wishes to purchase electric energy and associated products that will be produced by the Facility; and

WHEREAS, Buyer has entered into a ground lease agreement (the “**Lease**”) with Seller substantially in the form set forth herein as Exhibit D pursuant to which Seller shall lease land from the Borough on which Seller may construct the Facility (the “**Site**”);

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

**Article 1
Definitions**

1.1 **Definitions.** As used in this Agreement, the following terms shall have the meanings set out or referred to below, unless the context requires otherwise:

“**Affiliate**” – with respect to any person or entity, any other person or entity that controls, is controlled by, or is under common control with that person or entity, and includes any officer or director of that person or entity.

“Agreement” – this Agreement, including all Exhibits, as any of them may be amended or supplemented from time to time.

“Applicable Law” – all applicable provisions of any constitution, statute, law, ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

“Assignment for Security” – see Section 15.3.

“Billing Month” – each calendar month of the Contract Year.

“Business Day” – any day that banks are open for business in Middlesex County, New Jersey.

“Buyer” – Borough of South River, New Jersey

“Change in Law” – means that Applicable Law or rules are amended, modified, nullified, suspended, repealed, found unconstitutional or unlawful, or changed or affected in any respect by any law or rule of any Governmental Authority, including, without limitation, any interpretation thereof by any Governmental Authority.

“Claiming Party” – see Section 14.1.

“Claims” – any claims, demands, losses, liabilities, penalties (civil or criminal), fines and expenses (including reasonable attorneys’ fees and expenses), including with respect to (i) personal injury or death to persons, damage to any property or facilities of any person or entity, (ii) environmental, health or safety matters or conditions (including on-Site or off-Site contamination), and (iii) financial responsibility for corrective or remedial action under any Environmental Law or fines or penalties imposed under any Environmental Law.

“Commercial Operation Date” – see Section 3.1.

“Commercially Reasonable Efforts” – the efforts that a prudent person desiring to achieve a result would use in similar circumstances to achieve that result as expeditiously as practicable; *provided, however*, that a person required to use Commercially Reasonable Efforts will not be required to undertake extraordinary or unreasonable measures or incur expenses in excess of normal and usual filing fees and processing fees, if any.

“Contract Year” – each twelve-month period during the Delivery Term which shall begin on the Commercial Operation Date and end on each annual anniversary thereof. In the event that the Termination Date does not fall on the last day of any such twelve-month period, the final Contract Year shall be a period of less than twelve months

beginning on the last annual anniversary of the Commercial Operation Date that occurs within the Delivery Term and ending on the Termination Date.

“**Delivery Point**” – see Section 5.1.

“**Delivery Term**” – see Section 2.2.

“**Dispute**” – see Section 15.7.1.

“**Energy Payment**” – see Section 8.1.

“**Effective Date**” – the date twenty (20) days after the Agreement is executed by the Mayor of South River per the Borough ordinance.

“**Environmental Attributes**” – any and all fuel, emissions, air quality, and other environmental characteristics, credits, benefits, reductions, offsets, allowances, certificates, Renewable Energy Credits, green tags and attributes resulting from the generation of Solar Energy or the avoidance of the emission of any gas, chemical or other substance to the air, soil or water attributable to such generation or arising out of any Applicable Law (whether now existing or enacted in the future and including any benefit under the Federal Clean Air Act), including any such Applicable Law relating to oxides of nitrogen, sulfur or carbon, with particulate matter, and soot or mercury, in each case that are attributable to the Solar Energy produced by the Facility during the Term.

“**Environmental Laws**” – all Applicable Laws relating to pollution, protection, preservation or restoration of human health, the environment or natural resources, including laws relating to releases or threatened releases of hazardous substances or hazardous waste, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of hazardous substances or hazardous waste, including, but not limited to, the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response Compensation and Liability Act, in each case as amended, and their state and local counterparts and all regulations there under.

“**Event of Default**” – see Section 10.1.

“**Facility**” – the solar electric generating facility that will be owned by Seller and located in South River, New Jersey.

“**FERC**” – the Federal Energy Regulatory Commission or its successor organization.

“**Force Majeure**” – an event or circumstance that prevents one Party from performing its obligations under this Agreement, which event or circumstance was not anticipated as of the Effective Date, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of Commercially Reasonable Efforts, the Claiming Party is unable to overcome or avoid or cause to be avoided; *provided, however*, that in no event shall (1) a Site-specific strike, lockout or

labor dispute or (2) an inability to comply with Applicable Law as in effect at the execution date of this Agreement be considered an event of Force Majeure.

“Forced Outage” – a time during which the Facility is not capable of normal operations for reasons other than Force Majeure and which is not a Planned Outage or Maintenance Outage.

“Governmental Authority” – any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Facility or this Agreement.

“Indemnified Party” – see Section 15.8.

“Indemnifying Party” – see Section 15.8.

“Initial Term” – see Section 2.2.

“Initiating Party” – see Section 15.7.1.

“Interconnection Facilities” – see Section 6.1.

“Lease” – as defined above, the ground lease agreement by and between the Borough and the Seller pursuant to which the Seller will lease the Site.

“Maintenance Outage” – see Section 9.5.

“Meters” – see Section 7.1.

“Operating Representative” – see Section 9.10.

“Party” – Buyer or Seller.

“Peak Periods” – the period including the months of June through September and the period including the months of December, January and February.

“Permit” – any license, approval, order, permit or similar document or action issued or taken by any Governmental Authority.

“PJM” – means the PJM Interconnection, L.L.C. or its successor in regulatory function.

“PJM Operating Agreement” – the Operating Agreement of PJM Interconnection, L.L.C. Third Revised Rate Schedule No. 24, effective August 25, 2003, as it may be amended from time to time (or any document replacing it as to the relevant provisions).

“PJM Reliability Assurance Agreement” – the PJM Reliability Assurance Agreement among Load-Serving Entities in the MAAC Control Zone, dated as of June 2, 1998, amended from time to time (or any document replacing it as to the relevant provisions).

“PJM Rules” – the PJM Tariff, the PJM Reliability Assurance Agreement, the PJM Green Book, the PJM Manual for Capacity Obligations, the PJM Operating Agreement, and the other PJM rules and regulations in effect from time to time.

“PJM Tariff” – the Open Access Transmission Tariff of PJM as maintained on file with the FERC as the same may be amended or supplemented from time to time.

“PJM Year” – means the twelve month period beginning June 1 and ending May 31 of each year, as such may be modified by PJM at PJM’s discretion.

“Planned Outage” – the planned removal of the Facility from service that is scheduled in accordance with Section 9.4.

“Product” – the Solar Energy produced by the Facility during the Delivery Term.

“Prudent Industry Practice” – any of the practices, methods, standards and acts (including practices, methods, standards and acts engaged in or adopted by a significant portion of the electric power generation industry in the United States during the applicable period) which, in the exercise of reasonable judgment in light of the facts known at the time, could be expected to accomplish the desired result consistent with reliability, economy, safety, and expedition. Prudent Industry Practice is not intended to be limited to any particular set of optimum practices, methods, standards or acts to the exclusion of all others, but rather is intended to include practices, methods, or acts generally accepted in the United States, having due regard for, among other things, manufacturers’ recommendations and warranties, contractual obligations, Applicable Law and requirements or guidance of Governmental Authorities and the North American Electric Reliability Council.

“Renewable Energy Credit” – means all renewable energy credits, offsets, or other benefits allocated, assigned or otherwise awarded or certified to Seller, or the Facility by any Governmental Authority, program administrator or other certification board or other person generally recognized in the generation industry in connection with the Facility (including “Certificates,” as defined in the PJM GATS Operating Rules), that are, in each case, attributable to the Solar Energy produced by the Facility during the Term. Renewable Energy Credit as used herein shall specifically include Solar Renewable Energy Certificates (“SRECs”) as defined or created by the State of New Jersey, any Governmental Authority of the State of New Jersey and/or the United States of America.

“Seller” – As defined in the first paragraph of this Agreement.

“Site” – as defined above, the land leased by Seller from the Borough on which Seller may construct the Facility.

“Solar Energy” – electric energy produced by the Facility the delivered amount of which is measured in kilowatt-hours (“kWh”).

“Specified Rate” – for each calendar month, the lower of (1) the highest “prime rate” as published in *The Wall Street Journal* under the heading “Money Rates” on the first day of such month that such rates are published, plus 1% per annum and (2) the maximum rate allowed by Applicable Law.

“Tax” or “Taxes” – all taxes, assessments, charges, duties, fees, levies or other governmental charges, including all federal, state, local, foreign or other income, profits, unitary, business, franchise, capital stock, real property, personal property, intangible, withholding, FICA, unemployment compensation, disability, transfer, sales, use, excise and other taxes, assessments, charges, duties, fees, or levies of any kind whatsoever (whether or not requiring the filing of returns) and all deficiency assessments, additions to tax, penalties and interest.

“Termination Date” – see Section 2.2.

“Test Energy” – see Section 3.2.2.

“Uplift Charge”- the nondiscriminatory Borough tariff MWhr charge for the use of the Borough's distribution system to deliver Seller's Solar Energy to the Borough's interconnection with PJM.

- 1.2 Interpretation. The headings utilized in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to “Articles,” “Sections,” or “Exhibits” refer to the corresponding Articles, Sections, or Exhibits of or to this Agreement. All Exhibits to this Agreement are hereby incorporated by reference. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the word “including” does not limit the preceding words or terms. Unless otherwise stated, any reference in this Agreement to any person shall include its permitted successors and assigns and, in the case of any Governmental Authority, any successor to its functions and capacities.
- 1.3 Construction. In the event of a conflict between the terms of this Agreement and those of any Exhibit herein or the Lease, the terms of the Agreement shall prevail. Each Party acknowledges that it and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement.

Article 2

Term and Conditions Precedent

- 2.1 Effective Date. This Agreement will become effective on the Effective Date.
- 2.2 Term. Unless extended pursuant to Section 2.4, this Agreement will remain in effect until the 25th annual anniversary of the Commercial Operation Date (such period to be referred to as the “**Term**” and such date to be referred to as the “**Termination Date**”), subject to earlier termination pursuant to Sections 10.1 and 14.2. The period from the

Commercial Operation Date until the Termination Date to be referred to as the “**Delivery Term.**”

2.3 Conditions Precedent.

2.3.1 Seller’s Conditions Precedent. Seller may terminate this Agreement effective upon written notice to Buyer to that effect, and neither Party will have any further obligation to the other Party, except as provided in Section 2.4, if, by May 1, 2012:

- (a) Seller has not obtained financing commitments for development, construction and operation of the Facility under terms and conditions that are acceptable to Seller in its sole discretion; or
- (b) Seller has not entered into a contract for the engineering, procurement and construction of the Facility and obtained a confirmed order for scheduled delivery of the equipment or notified Buyer that it is waiving the condition; or
- (c) all municipal approvals, including the Interconnection Agreement with the Buyer, and Permits necessary for the Site control, development, and/or construction of the Facility, including certification from the State of New Jersey that the Facility complies with the State’s solar electric generation requirements and that its production qualifies for SRECs, either have not been issued or such Permits contain terms and conditions that are unacceptable to Seller in its sole discretion; or
- (d) a Change-in-Law or a change in the PJM Rules renders performance of any material obligation in this Agreement Commercially Impracticable, as that term is defined in the Uniform Commercial Code, or materially affects the function of this Agreement with respect to the Parties.

2.3.2 Buyer’s Conditions Precedent. Buyer may terminate this Agreement effective upon written notice to Seller to that effect, and neither Party will have any further obligation to the other Party, except as provided in Section 2.4, if, by September 1, 2012:

- (a) Seller has not entered into the Lease with Buyer under terms and conditions that are acceptable to Seller in its sole discretion;
- (b) Seller has not obtained financing commitments for the purpose of developing, constructing, and operating the Facility on terms and conditions that are acceptable to Seller in its sole discretion or notified Buyer that it is waiving the condition that it receive such financing commitments;

- (c) Seller has not entered into a contract for the engineering, procurement and construction of the Facility and obtained a confirmed order for the equipment and scheduled delivery for the equipment or notified Buyer that it is waiving the condition;
- (d) Seller has not received all Permits necessary for the ownership, development, and construction of the Facility on terms and conditions acceptable to Seller in its sole discretion or notified Buyer that it is waiving the condition that it receive such Permits;
- (e) Seller has not delivered to the Borough certification from the Federal Energy Regulatory Commission that the Facility is a Qualifying Facility by the Commercial Operation Date; or
- (f) by December 31, 2012 rather than October 1, 2012, the Commercial Operation Date has not occurred.

2.3.3 Waiver of Conditions Precedent. In the event any of the foregoing conditions to the obligations of a Party shall fail to be satisfied, such Party may, in its sole discretion, elect by written notice to the other Party to perform its obligations under this Agreement despite such failure, in which event such Party will be deemed to have waived such condition and any claim for damages, losses or other relief arising from or in connection with such failure, unless otherwise agreed in writing executed by the Parties.

2.3.4 Effect of Termination. Except to the extent expressly provided in this Agreement, the expiration or termination of this Agreement shall not relieve either Party of any liability accrued or arising from conduct or activities prior to the effective date of the expiration or termination, and such expiration or termination shall not affect the continued operation or enforcement of any provision of this Agreement which by its express terms or by reasonable implication is to survive any expiration or termination.

2.4 Disposition of the Facility at the End of the Term.

2.4.1 Seller Duties. Seller shall notify Buyer, no later than twenty-four (24) months prior to the Termination Date, whether it intends to remove the Facility, turn over the Facility to the Buyer, or sell the Product or Facility to a Governmental Authority duly authorized to purchase such Product.

2.4.2 Disposition of Facility. If, in the notification provided by Seller pursuant to Section 2.4.1, Seller indicates that it is prepared to grant all rights, title, and interests in the Facility to Buyer, Buyer shall, within ninety (90) days of receipt of said notice, provide notice to Seller of whether (i) it will take title to the Facility at the end of the Term; or (ii) Seller should remove the Facility from the Site at the end of the Term.

- 2.4.3 Transfer of Title of the Facility to Buyer. If, under Section 2.4.2, Buyer elects to take title to the Facility, Seller shall convey title to Buyer free and clear of all liens for a price equal to the fair market value of the Facility as determined by an independent appraiser. Each Party shall deliver and execute such documents as the other Party shall reasonably request to effect title transfer. Closing shall occur at a time and at a location to be agreed to by the Parties. Except insofar as any Environmental Law may impose a continuing liability on the Seller, upon transfer of title, Seller shall have no remaining obligations with respect to the Facility, it shall have no obligation to remove the Facility from the Site and it shall provide no warranties with respect to the condition or operation of the Facility.
- 2.4.4 Removal by Seller. If, under Section 2.4.2 Buyer directs Seller to remove the Facility from the Site, Seller shall remove the Facility, including all ancillary equipment owned by Seller, from the Site and return the Site to its original condition, reasonable wear and tear excepted, within nine (9) months of the end of the Term. Seller shall fund a liability account for the retirement and removal of the Facility and restoration of the land pursuant to FAS 143 and shall report annually the amount retained in such fund to the Buyer.

Article 3 **Commercial Operation Date; Testing**

- 3.1 Commercial Operation Date. The respective rights and obligations of Seller and Buyer relating to the commercial operation of the Facility and the obligation of Buyer to make payments under Article 8 shall commence on the Commercial Operation Date. The “**Commercial Operation Date**” will be the date on which Seller notifies Buyer that:
- (a) Seller has obtained, pursuant to final orders, all material Permits required for the operation of the Facility and such Permits are effective; and
 - (b) Seller has successfully completed all tests required to establish that the Facility can provide the Product to Buyer; and
 - (c) There are no suits, proceedings, judgments, rulings or orders by or before any Governmental Authority that could reasonably be expected to materially and adversely affect the ability of the Facility to operate, produce Solar Energy, and deliver the Product; and
 - (d) The Facility commences delivering Solar Energy consistently to Buyer.
- 3.2 Test Energy.
- 3.2.1 Testing Prior to the Commercial Operation Date. Seller will provide Buyer with a schedule of testing dates at the Facility as soon as practicable prior to commencement of testing.

- 3.2.2 Coordination of Tests. Seller will coordinate with Buyer the production and delivery of Solar Energy during testing (such Solar Energy to be referred to as “**Test Energy**”). Buyer will cooperate with Seller to facilitate Seller’s testing of the Facility. Seller will use Commercially Reasonable Efforts to schedule testing at times acceptable Buyer.
- 3.2.3 Payment for Test Energy. Buyer will purchase and receive all Test Energy and shall pay Seller for said Test Energy at the Energy Payment rate that will be in effect during the first Contract Year.

Article 4 Purchase and Sale of Products

- 4.1 Solar Energy. Seller will deliver and sell to Buyer and Buyer will purchase and receive from Seller all of the Solar Energy produced by the Facility during the Delivery Term.
- 4.2 Measurement of Product.
- 4.2.1 Solar Energy: Seller shall sell to Buyer and Buyer shall purchase from Seller the actual quantity of Solar Energy produced by the Facility as measured at the Meter at the Delivery Point. Except as set forth in Article 10.2.2, Seller does not guaranty to Buyer any minimum level of production either during a specific month or during the Delivery Term.
- 4.3 No Other Products. Seller shall not sell or deliver, and Buyer shall not be entitled to purchase or receive, any product or benefit from the Facility that is not expressly set forth in this Agreement. Seller retains all rights of ownership with respect to all products or benefits not expressly sold to Buyer hereunder. Specifically, and without limitation, Seller retains the rights to all Renewable Energy Credits and other Environmental Attributes associated with the operation or ownership of the Facility and all tax incentives or credits available under any Applicable Law.

Article 5 Delivery Point; Delivery

- 5.1 Delivery Point. The point of delivery (the “**Delivery Point**”) of the Solar Energy is set forth on Exhibit C attached hereto.
- 5.2 Title. Unless otherwise agreed, title to and risk of loss of Solar Energy shall pass from Seller to Buyer at the Delivery Point.
- 5.3 Responsibility. Seller shall be responsible for delivery of Solar Energy to the Delivery Point and, as between the Parties, shall be responsible for all costs, liabilities, taxes, losses, and charges of any kind imposed or assessed with respect to the delivery of Solar Energy to the Delivery Point.

- 5.4 Energy. Solar Energy supplied under this Agreement will be supplied as three-phase, alternating 60 Hertz current, expressed in kWh.

Article 6 Interconnection and Station Service

- 6.1 Interconnection Facilities. Seller shall be responsible for the cost of designing, testing and constructing, in a manner consistent with Prudent Industry Practice for the interconnection of customer owned generation, the facilities (the “**Interconnection Facilities**”) required for interconnection of the Facility with the Buyer’s electric distribution system. On the Commercial Operation Date, title to the Interconnection Facilities on Buyer’s side of the Delivery Point shall, if not already owned by the Borough and without any additional action of the Parties, be transferred from Seller to the Borough and the Borough shall, thereafter, own and operate consistent with Prudent Industry Practice the Interconnection Facilities on its side of the Delivery Point. Seller shall own and operate the Interconnection Facilities on its side of the Delivery Point. Buyer and Seller shall operate and maintain their respective Interconnection Facilities in accordance with Prudent Industry Practices.
- 6.2 Station Service. Seller shall not be required to acquire Station Service from the Borough for the Term of this Agreement.

Article 7 Metering

- 7.1 Location and Ownership. The Borough shall purchase and install revenue grade meters on Buyer’s side of the Delivery Points (“**Meters**”) at Seller’s cost. The Meters shall satisfy PJM Rules.
- 7.2 Access to Meter Data. Seller, at its expense, shall be entitled to metering data from the Meters.
- 7.3 Check Meters. Either Party may, at its option and expense (and in each case subject to the approval of the other Party, which approval shall not be unreasonably withheld), install, operate and maintain one or more check meters in accordance with Prudent Industry Practice. Check meters will be subject to inspection and testing by the other Party at all reasonable times.
- 7.4 Testing and Adjustment of Meters. Inspection and testing of Meters, and any adjustments as a result of such inspection and testing, will be in accordance with applicable PJM Rules for metering and interconnection standards then in effect.
- 7.5 Meter Disputes. Any dispute regarding the accuracy of the Meters must be initiated within one year from the end of the month in question.

Article 8
Charges and Payments

- 8.1 Payment. During the Delivery Term, Buyer shall pay Seller in accordance with Section 8.2 below, the amounts for the Product calculated as the number of kWh delivered multiplied by the \$/kWh rate listed in Exhibit A for the applicable Contract Year (“**Energy Payment**”).
- 8.2 Statements and Payment.
- 8.2.1 Monthly Invoice for Energy. By the tenth day of each calendar month following a calendar month in which Solar Energy was delivered, Seller shall provide Buyer with an invoice setting forth the quantity of Solar Energy delivered and the amount of the Energy Payment for such Solar Energy calculated in accordance with Exhibit A and Section 8.1. Seller’s invoice shall be due and payable by wire transfer within thirty (30) days of receipt. Payment of Seller’s invoice shall be in the manner as prescribed in the Borough’s procurement procedures. Only claims which have been incurred for materials, services and supplies acquired in accordance with the Local Public Contract Laws of the State of New Jersey will be eligible for processing. This law applies to all contract commodities as well as amendatory change orders. Buyer represents that the Product to be purchased from Seller pursuant to this Agreement qualifies for such processing.
- 8.2.2 Sample Invoice. A sample is attached, solely for illustrative purposes, as Exhibit B.
- 8.2.3 Next Business Day. If the last calendar day for a payment due under this Agreement is not a Business Day, then such payment shall be due not later than the next Business Day following that calendar day.
- 8.2.4 Interest. If Buyer fails to pay any amount payable under this Agreement when due, then Buyer also will pay interest at the Specified Rate on the amount that is not paid from the date that the amount was due to the date on which Seller receives payment.
- 8.2.5 Disputes. Invoices and payments will be subject to dispute for a period of ninety (90) days from the end of the month in question. If Buyer in good faith disputes the amount of any invoice or any part thereof, Buyer shall pay to Seller such amount as it concedes to be correct. Any disputes regarding or arising out of invoices or payments, or portions of invoices or payments, shall be resolved in accordance with the procedures set forth in Section 15.7 of this Agreement regarding Dispute Resolution. Upon a determination that Buyer owes all or a portion of the disputed amount, Buyer shall pay Seller the amount owed, with interest at the Specified Rate from the date that the disputed amount would have been due, within seven (7) Business Days.

Article 9
Maintenance and Operation

- 9.1 Initial Operations. Seller shall use Commercially Reasonable Efforts in accordance with Prudent Industry Practice to cause the Commercial Operation Date to occur on or before December 31, 2012.
- 9.2 Operation and Maintenance. Seller shall at all times operate and maintain the Facility in accordance with Prudent Industry Practice.
- 9.3 Permits and Compliance with Law.
- 9.3.1 Seller shall obtain and maintain in full force and effect all applicable Permits that are necessary for the ownership, development, construction, operation and maintenance of the Facility and the generation and delivery of Solar Energy, except to the extent that failure to do so would not materially adversely affect the operation of the Facility or generation and delivery of Solar Energy. Buyer shall cooperate with Seller's efforts to obtain all such Permits.
- 9.3.2 Seller shall, at all times during the Term, comply with all Applicable Law related to the operation and maintenance of the Facility and Seller's performance of its obligations under this Agreement, including all applicable Environmental Laws in effect at any time during the Term.
- 9.3.3 Buyer shall, at all times during the Term, comply with all Applicable Law necessary for Buyer to perform its obligations under this Agreement, including all applicable Environmental Laws in effect at any time during the Term.
- 9.4 Planned Outages. Seller shall, prior to the commencement of each PJM Year, prepare and deliver to Buyer a schedule of Planned Outages for the Facility that conforms to Prudent Industry Practice and the PJM Rules. Seller shall not schedule a Planned Outage during the summer Peak Period. In the event that Buyer reasonably objects to Seller's Planned Outage schedule Buyer shall notify Seller as soon as practicable and the Parties shall use Commercially Reasonable Efforts to agree upon a revised Planned Outage schedule.
- 9.5 Maintenance Outages. If Seller determines, in its sole discretion and consistent with Prudent Industry Practice or the PJM Rules, that the Facility must be removed temporarily from service for maintenance purposes (a "**Maintenance Outage**"), Seller will communicate to Buyer the commencement date and expected duration of any such Maintenance Outage as far in advance of the commencement of the Maintenance Outage as practicable. In the event Buyer reasonably objects to the schedule for Seller's Maintenance Outage, Buyer shall notify Seller as soon as practicable and the Parties shall use Commercially Reasonable Efforts to agree upon a revised schedule for the Maintenance Outage.

- 9.6 Records and Audit Rights. Seller shall maintain all records of its activities concerning its obligations hereunder, including, but not limited to, records related to invoicing and payments to and by Seller. Such records shall contain all entries reflecting the business operations of Seller under this Agreement. Buyer or its authorized agent shall have the right to audit and inspect any invoice, including all relevant billing, invoicing and metering records, for a period of up to two (2) years following delivery of such invoice to Buyer. Any such audit shall be conducted upon reasonable notice to Seller and during Seller's ordinary business hours.
- 9.7 Reports. Each of the Parties will provide to the other Party all information that such other Party shall reasonably request in connection with the performance of this Agreement, including all relevant technical information required for the purchase and sale and delivery and acceptance of Products, including Solar Energy.
- 9.8 Qualified Personnel. Seller will employ or contract with qualified personnel for the purpose of operating and maintaining the Facility.
- 9.9 Inspection. Seller shall have the right to inspect the Meters and Buyer shall have the right to inspect the Facility, upon reasonable prior notice to the other Party, during normal business hours and subject to the safety rules and regulations of the respective Party.
- 9.10 Operating Representatives. Each Party shall name a designated representative (the "**Operating Representative**"), who shall have authority to act for its principal in all technical, real-time or routine matters relating to operation of the Facility and performance of this Agreement and to attempt to resolve disputes or potential disputes; *provided, however,* that the Operating Representatives, in their capacity as representatives, shall not have the authority to amend or modify any provision of this Agreement.

Article 10

Events of Default

- 10.1 Termination Due to Event of Default. If an event specified in Section 10.2 (an "**Event of Default**") occurs with respect to either Seller or Buyer, then the other Party may terminate this Agreement immediately upon written notice to the other Party. The terminating Party will be entitled to all available remedies at law or in equity, except as expressly limited by this Agreement (including Section 13.1).
- 10.2 Event of Default. The occurrence of any of the following events shall constitute an Event of Default:
- 10.2.1 Payment Default. With respect to Buyer, if Buyer fails to make any payment required under this Agreement when due, and such failure is not remedied on or before fifteen (15) days after Seller notifies Buyer of the failure, unless payment is the subject of a good-faith dispute as described in Section 8.2.5.

- 10.2.2 Extended Forced Outage. It shall be an Event of Default if the Facility does not deliver a minimum of 100,000 kWh over a 24 month period, unless the shortfall is due to a Force Majeure event or Seller cures such Extended Forced Outage within 60 days of notice thereof. In the event of termination pursuant to this Section 10.2.2, neither Party shall have any further liability to the other Party except for liabilities accrued prior to the Termination Date.
- 10.2.3 Misrepresentation. If any representation or warranty made by a Party in this Agreement proves to have been false or misleading in any material respect when made, unless such Party cures or otherwise completes arrangements to hold the other Party harmless from the adverse effect of such misrepresentation within 60 days after notice thereof.
- 10.2.4 Default. If a Party fails to perform any covenant set forth in this Agreement (other than obligations that are otherwise specifically covered in this Section 10.2), or in the Lease, and the failure to perform is not cured within 60 days after the non-defaulting Party notifies the Party of the failure, it shall be an Event of Default. In the event that the failure to perform cannot be cured with reasonable due diligence within the 60-day period, and the Party has commenced and is continuing to attempt to effect a cure, an Event of Default shall not be deemed to have occurred until the expiration of such longer period as may be reasonably necessary to complete the cure, but in no event shall such longer period exceed an additional 60 days.
- 10.2.5 Bankruptcy and Insolvency. A Party shall be in default of this Agreement in the event a Party:
- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger); or
 - (b) becomes insolvent or is unable to pay its debts or fails, or admits in writing its inability, generally to pay its debts as they become due; or
 - (c) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (2) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; or
 - (d) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); or

- (e) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; or
- (f) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets; or
- (g) causes or is subject to any event with respect to it, which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (a) through (f) (inclusive); or
- (h) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

Article 11

Taxes; Change in Law

- 11.1 Responsibility. Except as set forth in Section 11.5, Seller will be responsible for all Taxes imposed or levied relating to the ownership or operation of the Facility. Buyer will be responsible for all Taxes imposed, if any, upon the sale of Product from the Facility (including any applicable sales or use or similar Tax). If Seller is required to collect or remit any Tax on behalf of Buyer, Buyer will reimburse Seller for such Taxes. The Buyer acknowledges that the Seller is exempt from sales or use tax under the Sales and Use Tax Act. The Buyer shall provide the Seller a Sales Tax Form ST-3 Resale Certificate within two (2) weeks of the execution of this Agreement.
- 11.2 Tax Reporting. Each of the Parties will be responsible for its own Tax reporting. For purposes of Tax reporting, the Parties will treat the transactions described in this Agreement in a manner consistent with the characterizations of such transactions in this Agreement.
- 11.3 Exemption. A Party, on notice from the other, shall provide a certificate of exemption or other reasonably satisfactory evidence of exemption if either Party is exempt from Taxes, and shall use Commercially Reasonable Efforts to obtain, and cooperate with the other Party obtaining, any exemption from or reduction of Tax.
- 11.4 Income and Other Taxes. Each Party shall be responsible for its own liabilities for any other Taxes, including income taxes, attributable to amounts paid to it under this Agreement.
- 11.5 Change in Law or PJM Rules. In the event a Change-in-Law or a change in the PJM Rules renders performance of any material obligation in this Agreement Commercially Impracticable, as that term is defined in the Uniform Commercial Code, or materially affects the function of this Agreement with respect to the Parties, excluding the expiration of any special tax credits for the development of solar generating facilities or Solar

Renewable Energy Credits (SRECS), the Parties may, in good faith, negotiate appropriate changes to this Agreement. In the event the Parties are unable to reach agreement regarding such changes, in spite of negotiating in good faith, the adversely affected Party may terminate this Agreement without further liability.

Article 12

Representations and Warranties

12.1 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer on the date of this Agreement and on the date of Commercial Operation:

12.1.1 Status. Seller is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation.

12.1.2 Authorization. The execution, delivery and performance by Seller of this Agreement have been duly authorized by all necessary action on the part of Seller, and do not and will not:

- (a) violate the organizational documents of Seller or any Applicable Law, or
- (b) contravene, breach or result in a default under any agreement or instrument to which Seller is a party or by which its assets may be bound.

12.1.3 Enforceability. This Agreement is the legal, valid, and binding obligation of Seller and is enforceable against Seller in accordance with its terms.

12.1.4 Control of Site, Permits and Approvals. Seller reasonably expects to have obtained control of the Site, all Permits necessary for construction and operation of the Facility and delivery of Energy by the Commercial Operation Date.

12.1.5 Litigation. There are no suits, proceedings, judgments, rulings or orders by or before any Governmental Authority or arbitrator or any pending or threatened action or proceeding affecting Seller before any Governmental Authority or arbitrator (i) that could reasonably be expected to materially and adversely affect the ability of Seller to perform its obligations under this Agreement or Seller's ability to operate the Facility, or (ii) which purports to affect the legality, validity or enforceability of this Agreement.

12.2 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller on the date of this Agreement and as of the Commercial Operation Date:

12.2.1 Status. Buyer is a body corporate and politic of the State of New Jersey, validly existing and in good standing under the laws of the State.

12.2.2 Authorization. The execution, delivery and performance by Buyer of this Agreement have been duly authorized by all necessary action on the part of Buyer, and do not and will not:

- (a) violate the organizational documents of Buyer or any Applicable Law, or
- (b) contravene, breach or result in a default under any agreement or instrument to which Buyer is a party or by which its assets may be bound.

12.2.3 Enforceability. This Agreement is the legal, valid, and binding obligation of Buyer and is enforceable against Buyer in accordance with its terms.

12.2.4 Litigation. There are no suits, proceedings, judgments, rulings or orders by or before any Governmental Authority or arbitrator or any pending or threatened action or proceeding affecting Buyer before any Governmental Authority or arbitrator that (i) could reasonably be expected to materially and adversely affect the ability of Buyer to perform its obligations under this Agreement, or (ii) purports to affect the legality, validity or enforceability of this Agreement.

12.2.5 Additional Governmental Entity Representations.

- (a) All acts necessary to the valid execution, delivery and performance of this Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under Applicable Law and Buyer's ordinances, bylaws or other regulations;
- (b) all persons making up the governing body of Buyer are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with Applicable Law;
- (c) entry into and performance of this Agreement by Buyer are for a proper public purpose within the meaning of Buyer's organizational documents and Applicable Law;
- (d) the term of this Agreement does not extend beyond any applicable limitation imposed by Buyer's organizational documents and Applicable Law;
- (e) entry into and performance of this Agreement by Buyer will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Buyer otherwise entitled to such exclusion; and
- (f) obligations to make payments hereunder do not constitute any kind of indebtedness of Buyer or create any kind of lien on, or security interest in, any property or revenues of Buyer which, in either case, is proscribed by any provision of Buyer's organizational documents or Applicable Law, or any contractual restriction binding on or affecting it or any of its assets.

12.3 No Other Warranties. Except as explicitly set forth in this Agreement, neither Party makes any representation or warranty, and all implied warranties, including any warranty

of merchantability or fitness for a particular purpose, are hereby expressly disclaimed. Each Party's decisions have been the result of arm's length negotiations between the Parties. Each Party is entering into this Agreement with a full understanding of all of the associated risks (economic and otherwise) and is capable of assuming and willing to assume those risks.

Article 13 Limitation of Liability

- 13.1 LIMITATION ON REMEDIES. NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, OR OTHER BUSINESS INTERRUPTION DAMAGES (EXCEPT TO THE EXTENT CONTEMPLATED BY THIS AGREEMENT), BY STATUTE, IN TORT OR IN CONTRACT. THIS LIMITATION DOES NOT LIMIT AN INDEMNIFYING PARTY'S OBLIGATIONS UNDER SECTION 15.8.
- 13.2 Survival. The provisions of this Article 13 shall survive the termination of this Agreement.

Article 14 Force Majeure

- 14.1 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the "**Claiming Party**") gives notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party shall be excused from the performance of its obligations for the duration of the Force Majeure. Force Majeure shall not excuse the obligation to pay amounts due or owing under this Agreement. The Claiming Party shall remedy the Force Majeure with all reasonable dispatch and shall notify the non-Claiming Party as soon as practicable of the termination of such Force Majeure event. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.
- 14.2 Termination for Extended Force Majeure. In the event that a Force Majeure continues for more than six (6) consecutive calendar months and the Claiming Party is not, at the end of such six-month period, exercising Commercially Reasonable Efforts to remedy the Force Majeure, the non-Claiming Party may terminate this Agreement upon notice to the Claiming Party without further obligation or liability except for obligations and liabilities that have accrued as of the date of such termination.

Article 15 Miscellaneous

- 15.1 Notices. All notices, demands, requests and other communications provided for under this Agreement, except for real-time or routine communications between the Operating

Representatives concerning Facility operations, will be in writing addressed to the respective Party, as the case may be, at the following addresses. Either Party may change the address to which notices are sent or the designation of its Operating Representative by written notice to the other as required by this Section 15.1. Notice will be deemed to have been given (a) when presented personally, upon receipt, (b) when sent by a nationally recognized overnight courier service, on the date delivered to the addressee, (c) when sent by mail, postage prepaid, registered or certified, return receipt requested, on the date delivered to the addressee or (d) when sent by facsimile transmission, on the date of electronic confirmation of transmission (if sent on a Business Day before 5:00 p.m. Eastern Prevailing Time) or the first Business Day thereafter (if sent at any other time). The names and addresses for the service of notices referred to in this Section 15.1 and the designated Operating Representatives are:

To Seller: Andrew W. Welty, Manager
South River Solar I, LLC
1875 I Street NW
Washington, DC 20006

with a copy to: Stephen J. Humes, Esq.
Holland & Knight LLP
31 West 52 Street
New York, NY 10019

To Buyer: Andrew Salerno, Borough Administrator
Borough of South River
48 Washington Street
South River, NJ 08882

with a copy to:

- 15.2 No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership duty, obligation or liability on the Parties. No Party shall act as agent of the other, have the authority or hold itself out as having the authority to bind the other Party to any contract, obligation or commitment or take any other action on behalf of the other Party, in each case except as expressly set forth in this Agreement.
- 15.3 Assignment. This Agreement may not be assigned by either Party without the other Party's prior written consent; *provided, however*, that Seller may assign, transfer, mortgage or pledge its interest in this Agreement as security (an "**Assignment for Security**") for any obligation secured by any indenture, mortgage or project financing arrangement or similar lien on its assets, without limitation on the right of the secured party to further assign this Agreement, including the assignment to create a security interest for the benefit of the third party. Buyer will take such actions as Seller may

reasonably request in connection with an Assignment for Security, including delivery of its written consent to such assignment and other documentation reasonably acceptable to lenders. Notwithstanding anything to the contrary set forth herein, Seller shall be permitted to assign this Agreement to an Affiliate which has the same capability as Seller to perform its obligations hereunder without the prior consent of Buyer. No other assignment of this Agreement may be made without the written consent of the Party, which consent shall not be unreasonably withheld.

15.4 Further Assurances. Each Party hereby undertakes to take or cause to be taken all actions, including the execution of additional instruments or documents, necessary to give full effect to the provisions of this Agreement.

15.5 Third Party Beneficiaries. This Agreement is for the benefit of the Parties hereto and their respective successors and permitted assigns, and this Agreement shall not otherwise be deemed to confer upon or give to any third party any remedy, claim, liability, reimbursement, cause of action or other right.

15.6 Governing Law. This Agreement shall be governed by and shall be construed and interpreted in accordance with the laws of the State of New Jersey, without reference to principles of conflicts of laws there under.

15.7 Dispute Resolution.

15.7.1 Conference. Either Party (the “**Initiating Party**”) may raise a concern regarding interpretation or clarification of this Agreement, or the acceptable performance thereof (“**Dispute**”) by submitting a summary of the issue and such Party’s position with respect to said issue in writing to the non-Initiating Party. The non-Initiating Party shall, within thirty (30) days of receipt of the writing from the Initiating Party, respond with a written response of its position on the issue. Either Party may, after the exchange of written positions, send a Notice of Dispute to the other Party requesting a conference of management personnel with authority to resolve the Dispute. Such conference between management personnel designated by each of the Parties shall be held within ten (10) days of delivery of the Notice of Dispute or such other time as mutually agreed to by the Parties. In the event the Parties are unable to resolve the Dispute through the procedures set forth in this Section 15.7.1, either Party shall have the right to pursue the remedies in accordance with the procedures set forth in Section 15.7.2.

15.7.2 Arbitration. Any controversy or claim arising out of or relating to this Agreement or the breach thereof, which cannot be resolved pursuant to the procedures described in Section 15.7.1 shall be resolved by arbitration. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award of the arbitrators shall be final, and a judgment may be entered upon it by any court having jurisdiction. A Party desiring to invoke this arbitration provision shall serve written notice upon the other of its intention to do so. Within fifteen (15) days of the date of receipt of such notice, each Party shall

serve upon the other the name of one individual, knowledgeable in matters pertaining to the performance of this Agreement and to the subject matter of the dispute to serve as an arbitrator. If either Party fails to select an arbitrator and notify the other Party of that selection within such fifteen (15) day period the other Party may request the American Arbitration Association to select the arbitrator. The two arbitrators so selected shall select a third arbitrator within fifteen (15) days after the selection of the two arbitrators or, if the two arbitrators cannot agree upon a third arbitrator, the American Arbitration Association shall select the third arbitrator. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association then prevailing, and shall be conducted in Newark, New Jersey, unless the Parties agree otherwise. Discovery shall be made available in accordance with the procedures set forth in the Federal Rules of Civil Procedure, but to a degree limited by the arbitrators as they deem appropriate to render the proceedings economical, efficient, expeditious and fair. Interest at the Specified Rate shall be added to any monetary award for sums found to have been due under this Agreement. Each Party shall bear its own costs of the arbitration and the Parties shall equally divide the fees and costs of the three arbitrators.

15.7.3 During the pendency of any Dispute, the Parties will continue to perform the obligations imposed upon them under this Agreement to the fullest extent possible, without prejudice to their respective positions in the dispute.

- 15.8 Cross Indemnification. Each Party (the “**Indemnifying Party**”) shall, to the maximum extent allowed by Applicable Laws, indemnify, defend and hold harmless the other Party, its officers, directors, employees, agents, representatives, subsidiaries, affiliates, successors and assigns (each an “**Indemnified Party**”) from and against any and all loss, claim, damage, liability (including reasonably attorneys fees) (collectively “**Claims**”) imposed on or incurred by or asserted against the Indemnified Party to the extent that such Losses arise from the willful or negligent conduct of the Indemnifying Party, its officers, directors, employees, agents, representatives, subsidiaries, affiliates, successors and assigns.
- 15.9 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and undertakings, oral or written, between them with respect to the subject matter of this Agreement.
- 15.10 Amendment. No amendment, modification, waiver, change or addition hereto shall be effective or binding on any of the Parties hereto unless the same is in writing and signed by each of the Parties hereto.
- 15.11 Standard of Review. It is the intent of this Section and the Parties that, to the maximum extent permitted by law, the provisions of this Agreement that are enumerated above shall not be subject to change under Sections 205 and 206 of the Federal Power Act, and that absent the written agreement of the Parties to change any of the above enumerated provisions, (i) the standard of review for changes to any of those enumerated provisions

proposed by a Party or the FERC, acting *sua sponte*, shall be the public interest standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the *Mobile-Sierra Doctrine*); and (ii) the standard of review for changes to any of the above-enumerated provisions proposed by a non-contracting third party shall be the most stringent standard permissible under Applicable Law.

- 15.12 Waivers. Any waiver, express or implied, by either Party of any right or of any failure to perform or breach of this Agreement by the other Party shall not constitute or be deemed as a waiver of any other right or of any other failure to perform or breach of this Agreement by such other Party, whether of a similar or dissimilar nature.
- 15.13 Severability. In the event of the invalidity or unenforceability of any provision of this Agreement, the validity or enforceability of the other provisions hereof shall not be affected and the Parties shall substitute for such invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intended effect of the invalid or unenforceable provision.
- 15.14 Cooperation. Buyer shall exercise Commercially Reasonable Efforts to cooperate with Seller's efforts to obtain Permits and to arrange for financing of the Facility. In addition, in the event that this Agreement is terminated prior to the end of the Term for any reason other than a Seller Event of Default, Buyer shall use Commercially Reasonable Efforts, which obligation shall survive any such termination of this Agreement, to assist Seller to sell the Products to PJM which assistance shall include continuing the Interconnection Agreement and use of the Interconnection Facilities. Such efforts shall not require Buyer to incur any material out of pocket expenses.
- 15.15 Affirmative Action. As is required by N.J.Stat. §10:5-31 (2011) *et seq* and N.J.A.C. 17:27 during the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting for the provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all

qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.Stat. §10:5-31 (2011) *et seq.*, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2 or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the

Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.”

15.16. Press Release. Neither Party shall issue a press release about this Agreement without the express written consent of the other Party which shall not be unreasonably withheld, conditioned or delayed.

15.17 New Jersey Business Registration Certificate. “Section 10.17-New Jersey Business Registration Certificate. N.J.Stat. §52:32-44 (2011) imposes the following requirements on contractors and all subcontractors that knowingly provide goods or perform services for a contractor fulfilling this contract: 1) the contractor shall provide written notice to its subcontractors to submit proof of business registration to the contractor; 2) prior to receipt of final payment from a contracting agency, a contractor must submit to the contracting agency an accurate list of all subcontractors or attest that none was used; 3) during the term of this contract, the contractor and its affiliates shall collect and remit, and shall notify all subcontractors and their affiliates that they must collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act, (N.J.Stat. §54:32B-1 et seq.) on all sales of tangible personal property delivered into this State.

A contractor, subcontractor or supplier who fails to provide proof of business registration or provides false business registration information shall be liable to a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration not properly provided or maintained under a contract with a contracting agency. Information on the law and its requirements is available by calling the New Jersey Department of the Treasury’s Business Services line at (609) 292-9292.

15.18. Political Campaign Contributions. The Seller hereby attests that it is in full compliance with N.J.S.A. §19:34-45 (2011).

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their duly authorized officers or agents, all as of the day and year first above written.

SOUTH RIVER SOLAR I, LLC

By: _____
Name: _____
Title: _____

BOROUGH OF SOUTH RIVER

By: _____
Name: _____
Title: _____

Exhibit A
Pricing of Product

A. Energy:

Year	\$/kWh	Escalator
1	\$ 0.0195	0.00%
2	\$ 0.0202	3.50%
3	\$ 0.0209	3.50%
4	\$ 0.0216	3.50%
5	\$ 0.0224	3.50%
6	\$ 0.0232	3.50%
7	\$ 0.0240	3.50%
8	\$ 0.0248	3.50%
9	\$ 0.0257	3.50%
10	\$ 0.0266	3.50%
11	\$ 0.0266	0.00%
12	\$ 0.0266	0.00%
13	\$ 0.0275	3.50%
14	\$ 0.0285	3.50%
15	\$ 0.0295	3.50%
16	\$ 0.0305	3.50%
17	\$ 0.0316	3.50%
18	\$ 0.0327	3.50%
19	\$ 0.0338	3.50%
20	\$ 0.0350	3.50%
21	\$ 0.0362	3.50%
22	\$ 0.0375	3.50%
23	\$ 0.0388	3.50%
24	\$ 0.0402	3.50%
25	\$ 0.0416	3.50%

Exhibit B: Sample Invoice

Exhibit C: Delivery Point (Drawing showing electrical Delivery Point)

Exhibit D: Form of Lease

Exhibit E: Interconnection Agreement

#10624634_v1

Small Generator Agreement

**SMALL GENERATOR
INTERCONNECTION AGREEMENT**

**Between the Borough of South River, NJ
and
South River Solar I, LLC**

(For Generating Facilities No Larger Than 20 MW)

Small Generator Agreement

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Facilities, and Metering Equipment

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Attachment 6 – Interconnection Provider's Description of its Upgrades and Best Estimate of Upgrade Costs

Attachment 7 – Rate for Use of Interconnection Provider's Distribution System

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This Interconnection Agreement includes all of the above-referenced Attachments ("Agreement") and is made and entered into this _____ day of _____, 2011, by the Borough of South River, NJ ("Borough") ("Interconnection Provider"), and South River Solar I, LLC Corporation ("Interconnection Customer") each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties."

Interconnection Provider Information

Interconnection Provider and Distribution Owner: South River, New Jersey
Attention: Borough Administrator
Address: 48 Washington Street
City: South River
State: New Jersey 08882
Phone: _____ Fax: _____ Email: _____

Interconnection Customer Information

Interconnection Customer: South River Solar I, LLC
Attention: Andrew W. Welty, Manager
Address: 1875 I Street NW
City: Washington
State: DC 20006
Phone: _____ Fax: _____

Interconnection Customer Application No: (TBD)

In consideration of the mutual covenants set forth herein, the Parties agree as follows:

Article 1. Scope and Limitations of Agreement

- 1.1 This Agreement shall be used for all Interconnection Requests for new distributed generators, connected in parallel with primary distribution circuits and customer secondary services.
- 1.2 This Agreement governs the terms and conditions under which the Interconnection Customer's Small Generating Facility will interconnect with, and operate in parallel with, the Interconnection Provider's Distribution System.
- 1.3 This Agreement does not constitute an agreement to purchase the Interconnection Customer's power. The purchase of power and other services that the Interconnection Customer may require are subject to a separate Power Purchase and Sales Agreement (PPSA). The delivery of power and other services that the Interconnection Customer

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may require and are subject to the tariff with the Distribution Owner set forth as Attachment 7 hereto. Station Service to the Interconnection Customer's Small Generating Facility is covered under a separate tariff.

1.4 Nothing in this Agreement is intended to affect any other agreement between the Interconnection Provider and the Interconnection Customer.

1.5 Responsibilities of the Parties

1.5.1 The Parties shall perform all obligations of this Agreement in accordance with all Applicable Laws and Regulations, Operating Requirements, and Good Utility Practice.

1.5.2 The Interconnection Customer shall construct, interconnect, operate and maintain its Small Generating Facility and construct, operate, and maintain its Interconnection Facilities in accordance with the applicable manufacturer's recommended maintenance schedule, and in accordance with this Agreement, and with Good Utility Practice.

1.5.3 The Interconnection Provider shall construct, operate, and maintain its Distribution System and Interconnection Facilities in accordance with this Agreement, and with Good Utility Practice.

1.5.4 The Interconnection Customer agrees to construct its facilities or systems in accordance with applicable specifications that meet or exceed those provided by the National Electrical Safety Code, the American National Standards Institute, IEEE, Underwriter's Laboratory, and Operating Requirements in effect at the time of construction and other applicable national and state codes and standards. The Interconnection Customer agrees to design, install, maintain, and operate its Small Generating Facility so as to reasonably minimize the likelihood of a disturbance adversely affecting or impairing the system or equipment of the Interconnection Provider and any Affected Systems.

1.5.5 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the Attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the point of change of ownership. The Interconnection Provider and the Interconnection Customer, as appropriate, shall provide Interconnection Facilities that adequately protect the Interconnection Provider's Distribution System, personnel, and other persons from damage and injury. The allocation of responsibility for the design, installation, operation, maintenance and ownership of Interconnection Facilities shall be

Small Generator Agreement

delineated in the Attachments to this Agreement.

- 1.5.6 The Interconnection Provider shall coordinate with all Affected Systems to support the interconnection.
- 1.5.7 Unless the Interconnection Customer is delivering the output of the facility exclusively to the Borough, no construction shall be done for the Small Generating Facility until the Interconnection Customer shall have an approved interconnection service agreement that complies with the PJM OATT (Interconnection Service Agreement (“ISA”) or Wholesale Market Participation Agreement (“WMPA”)). Any attempt to construct, interconnect, or operate without such ISA or WMPA shall result in immediate termination of this agreement.

1.6 Parallel Operation Obligations

Once the Small Generating Facility has been authorized to commence parallel operation, the Interconnection Customer shall abide by all rules and procedures pertaining to the parallel operation of the Small Generating Facility in the applicable control area, including, but not limited to: 1) the rules and procedures concerning the operation of generation set forth in the Borough Interconnection Requirements or by the applicable system operator(s) for the Interconnection Provider's Distribution System and; 2) the Operating Requirements set forth in Attachment 5 of this Agreement.

1.7 Metering

The Interconnection Customer shall be responsible for the Interconnection Provider's reasonable and necessary cost for the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition and communication equipment specified in Attachments 2 and 3 of this Agreement, including communication lines to carry data to the Interconnection Provider and meters required by Affected Systems. The Interconnection Customer's metering (and data acquisition, as required) equipment shall conform to applicable industry rules and Operating Requirements.

- 1.7.1 A meter of revenue quality as specified in Attachment 2 shall be installed at or near the Point of Common Coupling at Interconnection Customer's expense that is capable of providing readings to the Interconnection Provider, Interconnection Customer, Transmission Owner (Public Service Electric & Gas Company (PSEG)), and Transmission Provider (“PJM”) at all times. The meter, which shall include continuous communication design approved by Interconnection Provider, shall be dedicated to providing wholesale data to the Interconnection Provider. The meter shall also be devoted to acquiring PJM data and recording electricity delivered by the Interconnection Provider to the Interconnection Customer.

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Interconnection Customer shall be responsible for the cost of acquiring and installing the meter and related facilities, and upon installation, the meter shall become the property of the Interconnection Provider.

- 1.7.2 The Interconnection Provider shall report information to PSEG and/or PJM. All responsibility for delivering and confirming receipt of accurate data to PJM and PSEG, and providing information through PJM eSuite, shall be the sole and exclusive responsibility of the Interconnection Customer provided, however, that the Interconnection Provider shall report real time and metered generator outputs to the PJM Energy Management System (“EMS”) through PSEG. The Interconnection Customer shall provide the Interconnection Provider with the same data supplied to PSEG and PJM daily. Any cost incurred by, or imposed upon, the Interconnection Provider in connection with reporting data for this facility to PJM shall be paid by the Interconnection Customer.
- 1.7.3 The Interconnection Customer shall be responsible for any inaccurate data supplied to PJM and used in PJM’s billing. The Interconnection Customer shall make the Interconnection Provider whole for any billing inaccuracies assessed to the Interconnection Provider as the result of the Interconnection Customer’s data submissions. This includes any meter corrections (true up of accounted for generation to the actual metered generation over a period of time such as one month).
- 1.7.4 Upon written agreement between the two Parties, the Interconnection Customer may assign either the Interconnection Provider or PSEG to submit its data to PJM’s eSuites daily.
- 1.7.5 The meter(s) shall be tested according to Good Utility Practice, upon request by either Party, or every three years, and a written report shall be prepared and provided to the Parties. The Parties may be present during any testing of the meter. The Party requesting the test shall be responsible for the costs of such testing if performed outside of the normal periodic testing criteria stated in article 1.7.7.
- 1.7.6 Each Party shall have the right to install back up metering. Back up metering, if ever to be relied upon for revenue, shall be of the same manufacturer and model as the primary revenue meter. Back up metering shall be tested according to the same procedures and standards as the primary metering.
- 1.7.7 A meter shall be deemed inaccurate if it is inaccurate by more than +/- 1%. If a meter is found to be inaccurate, the Parties may use the back up metering, if any, if it has been tested regularly according to the same protocols as the primary metering. If back up metering is not available or if it is also found to be

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inaccurate, the Parties shall estimate the amount of the necessary adjustment on the basis of deliveries during a period of similar operating conditions when the primary meter was registering accurately.

1.7.8 In the event that the Parties cannot agree on a period during which the inaccurate measurements were made, the period during which the measurements are to be adjusted shall be the shorter of (i) the last one-half of the period from the least previous test of the electric metering device, or (ii) the one hundred eighty (180) days immediately preceding the test that found the meter was inaccurate.

1.8 Reactive Power

1.8.1 The Interconnection Customer shall design its Small Generating Facility to maintain a composite power delivery at continuous rated power output at the Point of Common Coupling of +/- 98.5%, unless the Interconnection Provider has established different requirements that apply to all similarly situated generators in the control area on a comparable basis. The requirements of this paragraph shall not apply to wind generators.

1.8.2 In the event that the Interconnection Provider is assessed a penalty by either the Transmission Owner or Transmission Provider for failure to maintain the +/- 98.5% requirement due to the Interconnection Customer's inability to maintain +/- 98.5%, the Interconnection Provider will assess the Interconnection Customer an appropriate share of the penalty assessed.

1.9 Fee for the Use of the System. In the event that the power purchase and sale agreement is terminated between the Parties and the Interconnection Customer requires delivery service for the use of the System, the Interconnection Customer shall pay the Interconnection Provider for the use of the Distribution System in accordance with the then current Tariff set forth in Attachment 7. The Interconnection Customer shall enter into an electric service agreement under a South River Municipal Electric Utility GLP retail tariff for station service and other requirements.

1.10 Capitalized terms used herein shall have the meanings specified in the Glossary of Terms in Attachment 1 or the body of this Agreement.

Article 2. Inspection, Testing, Authorization, and Right of Access

2.1 Equipment Testing and Inspection

2.1.1 The Interconnection Customer shall test and inspect its Small Generating Facility

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and Interconnection Facilities prior to interconnection in accordance with the Interconnection Provider's Interconnection Requirements. In addition, periodic testing is required in accordance with the Interconnection Provider's Interconnection Requirements. The Interconnection Customer shall notify the Interconnection Provider of such activities no fewer than five Business Days (or as may be agreed to by the Parties) prior to such testing and inspection. Testing and inspection shall occur on a Business Day. The Interconnection Provider may, at its own expense, send qualified personnel to the Small Generating Facility site to inspect the interconnection and observe the testing. The Interconnection Customer shall provide the Interconnection Provider a written test report when such testing and inspection is completed.

- 2.1.2 The Interconnection Provider shall provide the Interconnection Customer written acknowledgment that it has received the Interconnection Customer's written test report. Such written acknowledgment shall not be deemed to be or construed as any representation, assurance, guarantee, or warranty by the Interconnection Provider of the safety, durability, suitability, or reliability of the Small Generating Facility or any associated control, protective, and safety devices owned or controlled by the Interconnection Customer or the quality of power produced by the Small Generating Facility.

2.2 Authorization Required Prior to Parallel Operation

- 2.2.1 Interconnection Provider has attached the Interconnection Requirements as Attachment 5 of this Agreement. Interconnection Provider shall notify the Interconnection Customer of any changes to these requirements as soon as they are adopted. Interconnection Provider shall make Reasonable Efforts to cooperate with the Interconnection Customer in meeting requirements necessary for the Interconnection Customer to commence parallel operations by the in-service date.
- 2.2.2 The Interconnection Customer shall not operate its Small Generating Facility in parallel with the Interconnection Provider's Distribution System without prior written authorization of the Interconnection Provider. The Interconnection Provider will provide such authorization once the Interconnection Provider receives notification that the Interconnection Customer has complied with all commissioning tests and applicable parallel operation requirements. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

2.3 Right of Access

- 2.3.1 Upon reasonable notice, the Interconnection Provider may send a qualified person to the premises of the Interconnection Customer at or immediately before the time

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the Small Generating Facility first produces energy to inspect the interconnection, and observe the commissioning of the Small Generating Facility (including any required testing), startup, and operation for a period of up to three Business Days after initial start-up of the unit. In addition, the Interconnection Customer shall notify the Interconnection Provider at least five Business Days prior to conducting any on-site verification testing of the Small Generating Facility.

- 2.3.2 Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, the Interconnection Provider shall have access to the Interconnection Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its customers.
- 2.3.3 Each Party shall be responsible for its own costs incurred to comply with this Article.

Article 3. Effective Date, Term, Termination, and Disconnection

3.1 Effective Date

This Agreement shall become effective upon execution by the Parties.

3.2 Term of Agreement

This Agreement shall become effective on the Effective Date and shall remain in effect for a period of twenty-five (25) years from the Effective Date or such other longer period as the Interconnection Customer may request, and shall be automatically renewed for each successive one-year period thereafter, unless terminated earlier in accordance with article 3.3 of this Agreement.

3.3 Termination

The Parties understand and agree that this Agreement is not jurisdictional to the Federal Energy Regulatory Commission.

3.3.1 The Interconnection Customer may terminate this Agreement at any time by giving the Interconnection Provider twenty (20) Business Days written notice.

3.3.2 Either Party may terminate this Agreement after Default pursuant to article 7.6.

3.3.3 Upon termination of this Agreement, the Small Generating Facility will be disconnected from the Interconnection Provider's Distribution System. All costs required to effectuate such disconnection shall be borne by the terminating Party,

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unless such termination resulted from the non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for these costs under this Agreement.

3.3.4 The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.

3.3.5 This provisions of this article shall survive termination or expiration of this Agreement.

3.4 Temporary Disconnection

Temporary disconnection shall continue only for so long as reasonably necessary under Good Utility Practice.

3.4.1 Emergency Conditions -- "Emergency Condition" shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the Interconnection Provider, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Distribution System, the Interconnection Provider's Interconnection Facilities or the Affected Systems to which the Distribution System is directly connected; or (3) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Small Generating Facility or the Interconnection Customer's Interconnection Facilities. Under Emergency Conditions, the Interconnection Provider may immediately suspend interconnection service and temporarily disconnect the Small Generating Facility. The Interconnection Provider shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Customer's operation of the Small Generating Facility. The Interconnection Customer shall notify the Interconnection Provider promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Provider's Distribution System or any Affected Systems. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.

3.4.2 Routine Maintenance, Construction, and Repair

The Interconnection Provider may interrupt interconnection service or curtail the output of the Small Generating Facility and temporarily disconnect the Small Generating Facility from the Interconnection Provider's Distribution System when necessary for routine maintenance, construction, and repairs on the

Small Generator Agreement

Interconnection Provider's Distribution System. The Interconnection Provider shall provide the Interconnection Customer with five Business Days notice prior to such interruption. The Interconnection Provider shall use Reasonable Efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

3.4.3 Forced Outages

During any forced outage, the Interconnection Provider may suspend interconnection service to effect immediate repairs on the Interconnection Provider's Distribution System. The Interconnection Provider shall use Reasonable Efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the Interconnection Provider shall, upon request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection.

3.4.4 Adverse Operating Effects

The Interconnection Provider shall notify the Interconnection Customer as soon as practicable if, based on Good Utility Practice, operation of the Small Generating Facility may cause disruption or deterioration of service to other customers served from the same electric system, or if operating the Small Generating Facility could cause damage to the Interconnection Provider's Distribution System or Affected Systems. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon request. If, after notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time, the Interconnection Provider may disconnect the Small Generating Facility. The Interconnection Provider shall provide the Interconnection Customer with five Business Day notice of such disconnection, unless the provisions of article 3.4.1 apply.

3.4.5 Modification of the Small Generating Facility

The Interconnection Customer must receive written authorization from the Interconnection Provider before making any change to the Small Generating Facility that may have a material impact on the safety or reliability of the Distribution System. Such authorization shall not be unreasonably withheld. Modifications shall be done in accordance with Good Utility Practice. If the Interconnection Customer makes such modification without the Interconnection Provider's prior written authorization, the latter shall have the right to temporarily disconnect the Small Generating Facility.

3.4.6 Reconnection

The Parties shall cooperate with each other to restore the Small Generating Facility, Interconnection Facilities, and the Interconnection Provider's Distribution System to their normal operating state as soon as reasonably

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practicable following a temporary disconnection.

Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades

4.1 Interconnection Facilities

4.1.1 The Interconnection Customer shall pay for the cost of the Interconnection Provider's study and Interconnection Facilities itemized in Attachment 2 of this Agreement. The Interconnection Customer shall retain a communications engineer at its own expense to coordinate the integration of the Small Generating Facility into the Interconnection Provider's communication system. The Interconnection Provider shall provide a best estimate cost, including overheads, for the purchase and construction of its Interconnection Facilities and provide a detailed itemization of such costs. Costs associated with Interconnection Facilities may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, and the Interconnection Provider.

4.1.2 The Interconnection Customer shall be responsible for all reasonable expenses, including overheads, associated with (1) owning, operating, maintaining, repairing, and replacing its own Interconnection Facilities, and (2) operating, maintaining, repairing, and replacing the Interconnection Provider's Interconnection Facilities, and an interconnection study.

4.2 Distribution Upgrades

The Interconnection Provider shall design, procure, construct, install, and own the Distribution Upgrades described in Attachment 6 of this Agreement. If the Interconnection Provider and the Interconnection Customer agree, the Interconnection Customer may construct Distribution Upgrades that are located on land owned by the Interconnection Customer. The actual cost of the Distribution Upgrades, including overheads, shall be directly assigned to the Interconnection Customer.

Article 5. Cost Responsibility for Network Upgrades

5.1 Applicability

No portion of this article 5 shall apply unless the interconnection of the Small Generating Facility requires Network Upgrades.

5.2 Network Upgrades

The Interconnection Provider shall design, procure, construct, install, and own the Network Upgrades described in Attachment 6 of this Agreement. If the Interconnection

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Provider and the Interconnection Customer agree, the Interconnection Customer may construct Network Upgrades that are located on land owned by the Interconnection Customer. Unless the Interconnection Provider elects to pay for Network Upgrades, the actual cost of the Network Upgrades, including overheads, shall be borne initially by the Interconnection Customer.

5.2.1. If the Small Generating Facility fails to achieve commercial operation, but it or another generating facility is later constructed and requires use of the Network Upgrades, the Interconnection Provider and Affected System operator shall at that time reimburse the Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the generating facility, if different, is responsible for identifying the entity to which reimbursement must be made.

5.3 Special Provisions for Affected Systems

Unless the Interconnection Provider provides under this Agreement for the repayment of amounts advanced to any applicable Affected System operators for Network Upgrades, the Interconnection Customer and Affected System operator shall enter into an agreement that provides for such repayment. The agreement shall specify the terms governing payments to be made by the Interconnection Customer to Affected System operator as well as the repayment by Affected System operator.

5.4 Rights Under Other Agreements

Notwithstanding any other provision of this Agreement, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, transmission congestion rights, or transmission credits, that the Interconnection Customer shall be entitled to, now or in the future, under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements or transmission credits for transmission service that is not associated with the Small Generating Facility.

5.5 Responsibilities Under Other Agreements

Notwithstanding any other provisions of this agreement, nothing herein shall be construed as relieving the Interconnection Customer from any other requirements imposed by PJM, NERC or the RFC.

Article 6. Billing, Payment, Milestones, and Financial Security

6.1 Billing and Payment Procedures and Final Accounting

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- 6.1.1 The Interconnection Provider shall bill the Interconnection Customer for the interconnection study, and for the design, engineering, construction, and procurement costs of Interconnection Facilities and Upgrades contemplated by this Agreement on a monthly basis, or as otherwise agreed by the Parties. The Interconnection Customer shall pay each bill within 30 calendar days of receipt, or as otherwise agreed to by the Parties.
- 6.1.2 Within three months of completing the construction and installation of the Interconnection Provider's Interconnection Facilities and/or Upgrades described in the Attachments to this Agreement, the Interconnection Provider shall provide the Interconnection Customer with a final accounting report of any difference between (1) the Interconnection Customer's cost responsibility for the actual cost of such facilities or Upgrades, and (2) the Interconnection Customer's previous aggregate payments to the Interconnection Provider for such facilities or Upgrades. If the Interconnection Customer's cost responsibility exceeds its previous aggregate payments, the Interconnection Provider shall invoice the Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the Interconnection Provider within 30 calendar days. If the Interconnection Customer's previous aggregate payments exceed its cost responsibility under this Agreement, the Interconnection Provider shall refund to the Interconnection Customer an amount equal to the difference within 30 calendar days of the final accounting report.

6.2 Milestones

The Parties shall agree on milestones for which each Party is responsible and list them in Attachment 4 of this Agreement. A Party's obligations under this provision may be extended by agreement. If a Party anticipates that it will be unable to meet a milestone for any reason other than a Force Majeure Event, it shall immediately notify the other Party of the reason(s) for not meeting the milestone and (1) propose the earliest reasonable alternate date by which it can attain this and future milestones, and (2) requesting appropriate amendments to Attachment 4. The Party affected by the failure to meet a milestone shall not unreasonably withhold agreement to such an amendment unless (1) it will suffer significant uncompensated economic or operational harm from the delay, (2) attainment of the same milestone has previously been delayed, or (3) it has reason to believe that the delay in meeting the milestone is intentional or unwarranted notwithstanding the circumstances explained by the Party proposing the amendment.

6.3 Financial Security Arrangements

At least twenty (20) Business Days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the Interconnection Provider's Interconnection Facilities and Upgrades, the Interconnection Customer shall provide the Interconnection Provider, at the Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably

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acceptable to the Interconnection Provider and is consistent with the Uniform Commercial Code of the jurisdiction where the Point of Common Coupling is located. Such security for payment shall be in an amount sufficient to cover the costs for constructing, designing, procuring, and installing the applicable portion of the Interconnection Provider's Interconnection Facilities and Network Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the Interconnection Provider under this Agreement during its term. In addition:

- 6.3.1 The guarantee must be made by an entity that meets the creditworthiness requirements of the Interconnection Provider, and contain terms and conditions that guarantee payment of any amount that may be due from the Interconnection Customer, up to an agreed-to maximum amount.
- 6.3.2 The letter of credit or surety bond must be issued by a financial institution that is a U.S. commercial bank or the licensed U.S. branch of a foreign commercial bank having a Senior Debt Rating equivalent to A- or better as determined by at least two (2) rating agencies, one of which must be either Standard & Poor's or Moody's or insurer reasonably acceptable to the Interconnection Provider and must specify a reasonable expiration date.

Article 7. Assignment, Liability, Indemnity, Force Majeure, Consequential Damages, and Default

7.1 Assignment

This Agreement may be assigned by either Party upon fifteen (15) Business Days prior written notice and opportunity to object by the other Party; provided that:

- 7.1.1 Either Party may assign this Agreement without the consent of the other Party to any affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement, provided that the Interconnection Customer promptly notifies the Interconnection Provider of any such assignment; and
- 7.1.2 The Interconnection Customer shall have the right to assign this Agreement, without the consent of the Interconnection Provider, for collateral security purposes to aid in providing financing for the Small Generating Facility, provided that the Interconnection Customer will promptly notify the Interconnection Provider of any such assignment.
- 7.1.3 Any attempted assignment that violates this article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. An assignee is

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responsible for meeting the same financial, credit, and insurance obligations as the Interconnection Customer. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

7.2 Limitation of Liability

Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as authorized by this Agreement.

7.3 Indemnity

7.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in article 7.2.

7.3.2 The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or failure to meet its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

7.3.3 If an indemnified person is entitled to indemnification under this article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this article, to assume the defense of such claim, such indemnified person may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

7.3.4 If an indemnifying party is obligated to indemnify and hold any indemnified person harmless under this article, the amount owing to the indemnified person shall be the amount of such indemnified person's actual loss, net of any insurance or other recovery.

7.3.5 Promptly after receipt by an indemnified person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this article may apply, the indemnified person shall notify the indemnifying party of such fact. Any failure

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of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying party.

7.4 Consequential Damages

Other than as expressly provided for in this Agreement, neither Party shall be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

7.5 Force Majeure

7.5.1 As used in this article, a Force Majeure Event shall mean any act of God, labor disturbance, act of the public enemy or terrorist, war, insurrection, riot, fire, lightning, storm or flood, strikes or labor disputes, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or intentional wrongdoing.

7.5.2 If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly notify the other Party, either in writing or via the telephone, of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of Reasonable Efforts. The Affected Party will use Reasonable Efforts to resume its performance as soon as possible.

7.6 Default

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7.6.1 Any of the following shall constitute a Default:

- a) Interconnection Customer's dissolution or liquidation;
- b) Interconnection Customer's filing of a voluntary petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency law of any State, or Interconnection Provider voluntarily taking advantage of any such law by answer or otherwise.
- c) Interconnection Customer's failure to establish and maintain the funding of the Security in accordance with Article 6.3.
- d) Interconnection Customer's failure to make any payment due hereunder that is not cured within ten (10) Days of the date on which such payment is due shall constitute an Event of Default.
- e) Interconnection Customer's failure to comply with any other material obligation under this Agreement including acquisition of all permits and authorizations to build and operate the Small Generation Facility, which would result in a material adverse impact on Interconnection Provider.

7.6.2 No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement or the result of an act or omission of the other Party. Upon a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in article 7.6.1 (d) or for failure to pay for the services of the Interconnection Provider under its tariffs, the defaulting Party shall have thirty (30) calendar days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within thirty (30) calendar days, the defaulting Party shall commence such cure within ten (10) calendar days after notice and continuously and diligently complete such cure within forty-five (45) days from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.

7.6.3 If a Default is not cured as provided in this article, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

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Article 8. Insurance

- 8.1 The Interconnection Customer shall, at its own expense, maintain in force general liability insurance without any exclusion for liabilities related to the interconnection undertaken pursuant to this Agreement. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. Such insurance shall be obtained from an insurance provider authorized to do business in the State of New Jersey. Certification that such insurance is in effect shall be provided upon request of the Interconnection Provider, except that the Interconnection Customer shall show proof of insurance to the Interconnection Provider no later than ten Business Days prior to the anticipated commercial operation date and annually thereafter.
- 8.2 The Interconnection Provider agrees to maintain general liability insurance or self-insurance consistent with the Interconnection Provider's commercial practice. Such insurance or self-insurance shall not exclude coverage for the Interconnection Provider's liabilities undertaken pursuant to this Agreement.
- 8.3 The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

Article 9. Confidentiality

- 9.1 Confidential Information shall mean any confidential and/or proprietary information provided by one Party to the other Party that is clearly marked or otherwise designated "Confidential." For purposes of this Agreement all design, operating specifications, and metering data provided by the Interconnection Customer shall be deemed Confidential Information regardless of whether it is clearly marked or otherwise designated as such.
- 9.2 Confidential Information does not include information previously in the public domain, required to be publicly submitted or divulged by Governmental Authorities, or necessary to be divulged in an action to enforce this Agreement. Each Party receiving Confidential Information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the Party providing that information, except to fulfill obligations under this Agreement, or to fulfill legal or regulatory requirements, including the New Jersey Open Public Records Act.
- 9.2.1 Each Party shall employ at least the same standard of care to protect Confidential Information obtained from the other Party as it employs to protect its own

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Confidential Information.

Article 10. Disputes

- 10.1 The Parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this article.
- 10.2 In the event of a dispute, either Party shall provide the other Party with a written Notice of Dispute. Such Notice of Dispute shall describe in detail the nature of the dispute.
- 10.3 Any dispute concerning interpretation or clarification of this Agreement, or the acceptable performance thereof by a Party ("Dispute"), shall be immediately submitted in writing for resolution to the Interconnection Provider. All determinations, instructions, and clarifications of the Interconnection Provider shall be final and conclusive, unless the Interconnection Customer files with Interconnection Provider a written protest stating clearly and in detail the basis thereof within 14 days after the Interconnection Provider notifies the Interconnection Customer of any such determination, instruction, or clarification. Interconnection Provider shall respond to such protest within 30 days of its receipt.
- 10.4 In the event that use of the procedures set forth in article 10.3 does not lead to satisfactory resolution of the Dispute, either Party may send a Notice of Dispute to the other Party and request a conference for resolution of such dispute. Within three days after delivery of such notice, each Party shall nominate a senior officer of its management to meet at the Facilities, or at any other mutually agreed location, to resolve the dispute, which conference shall be convened within ten days after exchange of such nominations unless the parties mutually agree to another date. In the event the parties are unable to resolve the dispute through the procedures set forth in this article 10.4, either Party shall have the right to pursue the remedies in accordance with the procedures set forth in article 10.5.
- 10.5 Any controversy or claim arising out of or relating to this Agreement or the breach thereof, which cannot be resolved amicably, shall be settled by arbitration. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award of the arbitrators shall be final, and a judgment may be entered upon it by any court having jurisdiction. A Party desiring to invoke this arbitration provision shall serve written notice upon the other of its intention to do so. Within 15 days of the date of such notice, each Party shall serve upon the other the name of one individual, knowledgeable in matters pertaining to the performance of this Agreement and to the subject matter of the dispute to serve as an arbitrator. If either Party fails to select an arbitrator and notify the other Party of that selection within such 15 day period the other Party may request the American Arbitration Association to select the arbitrator. The two arbitrators so selected shall select a third arbitrator within 15 days after the selection of the

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two arbitrators or, if the two arbitrators cannot agree upon a third arbitrator, the American Arbitration Association shall select the third arbitrator. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association then prevailing, and shall be conducted in Newark, New Jersey, unless the Parties agree otherwise. Discovery shall be made available in accordance with the procedures set forth in the Federal Rules of Civil Procedure, but to a degree limited by the arbitrators as they deem appropriate to render the proceedings economical, efficient, expeditious and fair. Interest at the Late Payment Rate shall be added to any monetary award for sums found to have been due under this Agreement. Except as otherwise specified by the arbitrators each Party shall bear its own costs of the arbitration.

- 10.6 During the pendency of any Dispute, the Parties will continue to perform the obligations imposed upon them under this Agreement to the fullest extent possible, without prejudice to their respective positions in dispute
- 10.7 Each Party agrees to conduct all negotiations in good faith and will be responsible for one-half of any costs paid to neutral third-parties.

Article 11. Taxes

- 11.1 The Parties agree to follow all applicable tax laws and regulations, consistent with Internal Revenue Service and New Jersey requirements.
- 11.2 Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Agreement is intended to adversely affect the Interconnection Provider's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

Article 12. Miscellaneous

- 12.1 Governing Law, Regulatory Authority, and Rules
The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of New Jersey (where the Point of Common Coupling is located), without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.
- 12.2 Amendment
The Parties may amend this Agreement by a written instrument duly authorized and executed by both Parties.

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12.3 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

12.4 Waiver

12.4.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

12.4.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Any waiver of this Agreement shall, if requested, be provided in writing.

12.5 Entire Agreement

This Agreement, including all Attachments, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

12.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

12.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

12.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and

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independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

12.9 Security Arrangements

Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. The Parties will comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

12.10 Environmental Releases

Each Party shall notify the other Party, first orally and then in writing, of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Small Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than 24 hours after such Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any governmental authorities addressing such events.

12.11 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

12.11.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Interconnection Provider be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

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12.11.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

12.12 Audit Rights

During the term of this Agreement, each party shall maintain auditable records relating to the activities it is obligated to perform pursuant to this Agreement, including without limitation all bills rendered, all meter records and all data submissions pursuant to this Agreement. An audit may be made from time to time, but shall in no event be concluded later than six (6) months after the expiration of this Agreement, of the accounts and records kept by both parties under this Agreement by an independent certified public accountant to verify the accuracy of the data supplied for the purposes of this Agreement, including billing. The report of said certified public accountant shall be sent to each party and the party audited shall advise the other party within three (3) months of the receipt of said report of any exception or objection to any portion of said report.

Article 13. Notices

13.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national carrier service, or sent by first class mail, postage prepaid, to the person specified below:

If to the Interconnection Customer:

Interconnection Customer: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____

If to the Interconnection Provider:

Borough of South River Electric Utility
Attention: Borough Administrator
Address: 48 Washington Street
City: South River State: NJ Zip: 08882
Phone:
Fax:

13.2 Billing and Payment

Billings and payments shall be sent to the addresses set out below:

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Interconnection Customer: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____

Interconnection Provider: Same as above _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____

13.3 Alternative Forms of Notice

Any notice or request required or permitted to be given by either Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

If to the Interconnection Customer:

Interconnection Customer: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____

If to the Interconnection Provider:

Interconnection Provider: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____

13.4 Designated Operating Representative

The Parties shall designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

Interconnection Customer's Operating Representative:

Interconnection Customer: _____
Attention: _____
Address: _____

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City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____

Interconnection Provider's Operating Representative:

Interconnection Provider: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____

13.5 Changes to the Notice Information

Either Party may change this information by giving five Business Days written notice prior to the effective date of the change.

Article 14. Signatures

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the Interconnection Provider

Name: _____

Title: _____

Date: _____

For the Interconnection Customer

Name: _____

Title: _____

Date: _____

Glossary of Terms

Affected System – An electric system other than the Interconnection Provider's Distribution System that may be affected by the proposed interconnection.

Applicable Laws and Regulations – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

Business Day – Monday through Friday, excluding Federal Holidays.

Default – The failure of a breaching Party to cure its breach under the Small Generator Interconnection Agreement.

Distribution Owner – The entity that owns, leases or otherwise possesses an interest in the portion of the Distribution System at the Point of Common Coupling and may be a Party to the Small Generator Interconnection Agreement to the extent necessary.

Distribution System – The facilities owned, controlled or operated by the Interconnection Provider or the Distribution Owner that are used to transmit electricity to ultimate usage points such as homes and industries directly from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances.

Distribution Upgrades – The additions, modifications, and upgrades to the Interconnection Provider's Distribution System at or beyond the Point of Common Coupling to facilitate interconnection of the Small Generating Facility and render the transmission service necessary to effect the Interconnection Customer's wholesale sale of electricity in interstate commerce. Distribution Upgrades do not include Interconnection Facilities.

Good Utility Practice – Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Governmental Authority – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power.

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Interconnection Customer – Any entity that proposes to interconnect its Small Generating Facility with the Interconnection Provider's Distribution System.

Interconnection Facilities – The Interconnection Provider's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Small Generating Facility and the Point of Common Coupling, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Small Generating Facility to the Interconnection Provider's Distribution System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades or Network Upgrades.

Interconnection Provider – The utility (or its designated agent) that owns, controls, or operates distribution facilities used to transmit electricity under the Tariff. The term Interconnection Provider should be read to include the Distribution Owner when the Distribution Owner is separate from the Interconnection Provider.

Interconnection Request – The Interconnection Customer's request, in accordance with the Interconnection Provider's procedures, to interconnect a new Small Generating Facility, or to increase the capacity of, or make a Material Modification to the operating characteristics of, an existing Small Generating Facility that is interconnected with the Interconnection Provider's Distribution System.

Material Modification – A modification that has a material impact on the cost or timing of any Interconnection Request with a later queue priority date.

Late Payment Rate - For each calendar month, the "prime rate" as published in *The Wall Street Journal* under the heading "Money Rates" on the first day of such month that such rates are published, plus 1% per annum.

NERC – The North American Electric Reliability Corporation or any successor thereto designated by the Federal Energy Regulatory Commission as the Electric Reliability Organization.

Network Upgrades – Additions, modifications, and upgrades to the Interconnection Provider's interconnection with an Affected System that provides interstate transmission of electricity, or to an Affected System to accommodate the interconnection of the Small Generating Facility with the Affected System. Network Upgrades do not include Distribution Upgrades.

Operating Requirements – Any operating and technical requirements that may be applicable due to Regional Transmission Organization, Independent System Operator, control area, or the Interconnection Provider's requirements, including those set forth in the Small Generator Interconnection Agreement.

Party or Parties – The Interconnection Provider, Distribution Owner, Interconnection Customer or any combination of the above.

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PJM or PJM Interconnection, L.L.C. – The Delaware limited liability corporation governed by a Board of Managers pursuant to the PJM Operating Agreement.

Point of Common Coupling – The point where the Interconnection Facilities connect with the Interconnection Provider's Distribution System or to the first interconnection with PJM.

Reasonable Efforts – With respect to an action required to be attempted or taken by a Party under the Small Generator Interconnection Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

RFC – The ReliabilityFirst Corporation or any successor entity thereto designated by NERC as a Regional Reliability Council within jurisdiction over the Interconnection Provider's territory.

Small Generating Facility – The Interconnection Customer's device for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

Tariff – The Interconnection Provider or Affected System's Tariff through which, respectively, Interconnection Service or open access transmission service is offered, and as amended or supplemented from time to time, or any successor tariff.

Transmission Owner – The entity that owns and maintains the transmission system, in this case Public Service Electric and Gas Company.

Transmission Provider – The entity responsible for the reliability of its “local” transmission system and that operates or directs the operations of the transmission facilities, in this case PJM.

Upgrades – The required additions and modifications to the Interconnection Provider's Distribution System at or beyond the Point of Common Coupling. Upgrades may be Network Upgrades or Distribution Upgrades. Upgrades do not include Interconnection Facilities.

**Description and Costs of the Small Generating Facility,
Interconnection Facilities, and Metering Equipment**

[to be provided]

Equipment, including the Small Generating Facility, Interconnection Facilities, and metering equipment shall be itemized and identified as being owned by the Interconnection Customer or the Interconnection Provider. The Interconnection Provider will provide a best estimate itemized cost, including overheads, of its Interconnection Facilities and metering equipment, and a best estimate itemized cost of the annual operation and maintenance expenses associated with its Interconnection Facilities and metering equipment.

**One-line Diagram Depicting the Small Generating Facility, Interconnection
Facilities, Metering Equipment, and Upgrades**

To Be Provided

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Attachment 4

Milestones

In-Service Date: On or before _____

Critical milestones and responsibility as agreed to by the Parties:

	Milestone/Date	Responsible Party
(1)	25% project site construction completed. [DATE]	SR Solar I
(2)	Set Poles and extension of 4.2 kV circuit. [DATE]	South River
(3)	Install medium voltage equipment. Install / commission Metering.	South River Borough
(4)	Deployment and connection of Fiber Optic[?]	SR Solar I / South River Borough Monitoring.
(5)	Delivery of all major electrical equipment, on or before Date for: (inverters, combiner box's, BOS)	SR Solar I
(6)	Demonstrate commercial operation of all generating Units. On or before _____	South River Bor./Solar I

Agreed to by:

For the Interconnection Provider _____ Date _____

For the Affected Owner (If Applicable) _____ Date _____

For the Interconnection Customer _____ Date _____

**Additional Operating Requirements for the Interconnection Provider's
Distribution System and Affected Systems Needed to Support
the Interconnection Customer's Needs**

**To be provided based upon the final design and final consultation with PJM for Behind
The Meter installations.**

The Interconnection Provider shall also provide requirements that must be met by the Interconnection Customer prior to initiating parallel operation with the Interconnection Provider's Distribution System.

**Interconnection Provider's Description of its Upgrades
and Best Estimate of Upgrade Costs**

See attached South River Borough Costing Worksheet for Commercial Projects dated [insert date]

Total estimated cost of \$ _____

The Interconnection Provider shall describe Upgrades and provide an itemized best estimate of the cost, including overheads, of the Upgrades and annual operation and maintenance expenses associated with such Upgrades. The Interconnection Provider shall functionalize Upgrade costs and annual expenses as either transmission or distribution related.

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Attachment 7

Rate for Use of Interconnection Provider's Distribution System

Customer shall pay [rate schedule].