

**RESOLUTION OF THE BOARD OF COMMISSIONERS
MORRIS COUNTY IMPROVEMENT AUTHORITY**

TITLE:

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY
RECOMENDING THE UNDERTAKING OF CERTAIN WORK IN
CONNECTION WITH TRANCHE I OF THE MORRIS COUNTY
IMPROVEMENT AUTHORITY'S RENEWABLE ENERGY PROGRAM**

WHEREAS, the Morris County Improvement Authority (including any successors and assigns, the "*Authority*") has been duly created by resolution duly adopted by the Board of Chosen Freeholders (the "*Board of Freeholders*") of the County of Morris (the "*County*") in the State of New Jersey (the "*State*") as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "*Act*"), and other applicable law; and

WHEREAS, pursuant to that certain resolution entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2009A AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on June 10, 2009, as amended and supplemented from time to time in accordance with its terms, including by a Certificate of an Authorized Officer of the Authority dated February 18, 2010 (the "*Bond Resolution*"; (capitalized terms used herein and not otherwise defined herein, for all purposes of this Resolution, shall have the meanings ascribed to such terms in the Bond Resolution), the Act and other applicable law and official action, the Authority issued its "County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2009A" dated February 18, 2010, in the aggregate principal amount of \$21,600,000 (the "*Series 2009A Bonds*") to finance the Renewable Energy Projects for the Series 2009A Local Units as set forth in the various Program Documents in connection with the initial tranche of the Authority's Renewable Energy Program ("*Tranche I*"); and

WHEREAS, Tioga Solar Morris County 1, LLC, a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the "*Company*" or "*Tioga Morris*", and together with the Authority, the Series 2009 Local Units, the "*Parties*") was selected by the Authority pursuant to a competitive process pursuant to (a) the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)), (b) the State Pay to Play Law, N.J.S.A.19:44A-20.1 *et seq.*, (c) with respect to the Board of Education Series 2009A Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State, and (d) on behalf of the County Series 2009A Local Units, the State College Contracts Law (N.J.S.A. 18A:64-52 *et seq.*), all pursuant to (i) Local

Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services* (“*LFB Notice 2008-20*”), (ii) the Board of Public Utilities protocol for measuring energy savings in PPA Agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009*), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements* (the “*LFB Notice 2009-10*”, and together with LFB Notice 2008-20, the “*Local Finance Board Notices*”) and applicable law; and

WHEREAS, in connection with Tranche I, the County and the Authority entered into that certain “County Guarantee Agreement (Morris County Renewable Energy Program, Series 2009A,” dated February 1, 2010 (the “*County Guarantee*”) pursuant to which the County guaranteed the payment of all principal of and interest on the Series 2009A Bonds; and

WHEREAS, on April 30, 2013 Tioga Energy, Inc., the managing member of Tioga Morris assigned (the “*Initial Assignment to ABC*”) all of its membership interest in Tioga Morris to Tioga Energy (Assignment for the Benefit of Creditors) LLC (“*Tioga Energy ABC*”);

WHEREAS, pursuant to Resolution No. 14-41, duly adopted by the Authority on November 17, 2014, the Authority recommended that Tioga Energy ABC cause Tioga Morris to undertake completion of certain repairs at Boonton High School and Mennen Arena (the “*Repair Work*”);

WHEREAS, pursuant to Resolution No. 15-18, duly adopted by the Authority on April 16, 2015, the Authority recommended that the Tioga Energy ABC cause Tioga Morris to undertake additional repair work, including replacement of snow guards and ice guards, and the installation of snow jacks, estimated to cost \$42,500.00 (the “*Supplemental Repair Work*”);

WHEREAS, Tioga Energy ABC has determined that a change in scope with respect to the Repair Work is necessary due to the lack of availability of solar panels which match the existing solar panels installed at Mennen Arena, and it is estimated that such change in scope will cost approximately \$18,000 (the “*Amended Repair Work*”), to be paid out of funds on hand with Tioga Morris;

WHEREAS, Tioga Energy ABC has determined that annual maintenance should be performed with respect to all solar electric generating facilities that are part of Tranche I, which maintenance shall include standard services based on manufacturers recommendations and industry best-practice, including, but not limited to, visual and mechanical inspections of the equipment to ensure the safety and longevity of the systems, measurements to verify the systems are producing as expected, and system cleaning to remove dirt, pollen and other debris from the modules that can impact production (the “*O&M Work*”). It is anticipated that the O&M Work will cost approximately \$50,445.00, to be paid out of funds on hand with Tioga Morris;

WHEREAS, Tioga Energy ABC has requested the Authority’s position with respect to the performance of the Amended Repair Work and the O&M Work.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Authority as follows:

Section 1. The Authority hereby determines to recommend to Tioga Energy ABC that Tioga Morris undertake the Amended Repair Work and the O&M Work, all of which shall be paid for out of funds on hand with Tioga Morris.

Section 2. All actions taken to date by the Authority, the Chairperson and the Treasurer of the Authority (including their designees, each an “Authorized Officer”) the Authority’s special energy and bond counsel Pearlman & Miranda, LLC, and the Authority’s construction manager, Gabel Associates, Inc., with respect to all matters set forth in or contemplated by this resolution, are hereby ratified, confirmed and approved.

Section 3. Reserved.

[Remainder of page intentionally left blank]

Section 4. Subject to the second sentence of this section, this resolution shall take effect immediately. In accordance with N.J.S.A. 40:37A-50, the Secretary of the

Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Freeholders a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

MOVED/SECONDED:

Resolution moved by Commissioner Gallop.

Resolution seconded by Commissioner Ramirez.

VOTE:

Commissioner	Yes	No	Abstain	Absent
Kovalcik	X			
Gallop	X			
Ramirez	X			
Sandman				X
Bonanni	X			

ATTESTATION:

This Resolution was acted upon at the Regular Meeting of the Authority held on May 28, 2015 at the Authority’s principal corporate office in Morristown, New Jersey.

Attested to this 28th day of May, 2015

By: _____
Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of May 28, 2015

By: _____
Stephen B. Pearlman, Esq., Partner
Pearlman & Miranda, LLC
Counsel to the Authority