

MORRIS COUNTY IMPROVEMENT AUTHORITY

Commissioners

John Bonanni
Chairman

Scott Gallopo
Joseph Kovalcik
Christina Ramirez
Ellen M. Sandman

John Krickus
Freeholder Liaison



June 4, 2015

MEMO TO: Board of Chosen Freeholders

SUBJECT: Solar Project

The Commissioners of the Morris County Improvement Authority (MCIA) wish to bring to your attention a May 31, 2015 article in the New Jersey Herald entitled "Solar Project Payments may have skirted Federal Law." The story indicates that Sussex County was told by its "professionals last September about possible collusion, criminal activity, and fraudulent use of money to pay debt service and other expenses". The Commissioners of the MCIA felt that it was critical to put this matter into its proper perspective, and as such, wish to bring the following facts to your attention.

In accordance with the Solar 2 contract documents, all funds in the transaction – power purchase agreement payments, 1603 Grant funds, tax equity and other funds – were in the sole dominion and control of the Developer, SunLight Morris Solar (SLG). SLG was the sole applicant to the U.S. Treasury for 1603 Grant Funds. The U.S. Treasury only paid 1603 Grant Funds to SLG. SLG controlled the disbursement of all company funds. Morris County only had a first lien right to 1603 Grant Funds (and even then, only in the event of a default by SLG) and a right to receive lease payments from SLG from generally available SLG funds. Once there was a default, both the County of Morris and SLG's contractor, Power Partners Mastec (PPM), claimed rights to funds of SLG, including 1603 Grant Funds. Litigation ensued in both State of New Jersey and federal courts. Morris County, PPM and others, participated in a federal mediation in October 2014 at which the mediator, a former federal court judge, strongly encouraged all parties to reach settlement.

At all times during the course of continued settlement discussions, the 1603 Grant matter was discussed amongst the Freeholder Board and the MCIA Commissioners. The MCIA consistently maintained the position that both Amendment and Consent Agreements executed and approved by the MCIA and the Freeholder Board, first in December of 2012 and again in September of 2013, were proper transactions, and entirely consistent with MCIA's first lien position in the 1603 Grant Funds and as a creditor of SLG.

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With the complete understanding that the outcome in any litigation is inherently unpredictable, coupled with the removal of options for the MCIA and County to maximize future revenues as a result of protracted and expensive litigation lasting beyond the end of the 1603 Grant Program, it was the consensus of both the Freeholder Board and the Commissioners of the MCIA to direct efforts towards settlement, such that both the Freeholder and MCIA Boards could have an opportunity to consider multiple solutions to the issues at hand that maximize revenue and reduce adverse financial impact to the County budget.

Sincerely,



John Bonanni
Commissioner

JB:ks

cc: Christina Ramirez, Commissioner
Joseph Kovalcik, Commissioner
Ellen Sandman, Commissioner
Scott Gallopo, Commissioner