

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

TITLE:

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY
AUTHORIZING AMENDMENT NO. 2 TO THE PROCUREMENT AND
CONSTRUCTION CONTRACT PROVIDING FOR CONSTRUCTION OF
CERTAIN RECOMMENDED SERIES 2011 LOCAL UNIT PROJECTS IN
FURTHERANCE OF THE COUNTY OF MORRIS GUARANTEED RENEWABLE
ENERGY PROGRAM, SERIES 2011**

WHEREAS, on December 8, 2011, The Morris County Improvement Authority (the "*Authority*") issued its \$33,100,000 County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A [Federally Taxable] (the "*Bonds*"), to finance, among other things, a portion of the costs of renewable energy projects for various local governmental units located in the County of Morris;

WHEREAS, in connection with the issuance of the Bonds, Sunlight General Morris Solar, LLC, as owner (the "*Owner*"), and HESP Construction, LLC, as contractor (the "*Contractor*"), entered into that certain Procurement and Construction Contract, dated as of April 20, 2016 (the "*Contract*"), which Contract was also acknowledged by the Authority;

WHEREAS, the Contractor has requested to add Genforce Power as an approved subcontractor; and

WHEREAS, the approved list of subcontractors and vendors, as illustrated in Attachment X to the Contract, may be modified by the Contractor upon the approval of the Owner and the Authority; and

WHEREAS, the Owner has approved the addition of GenForce Power; and

WHEREAS, the parties to the Contract now desire to amend the Contract to replace Attachment X in its entirety; and

WHEREAS, pursuant to Section 20.11 of the Contract, the Contract may only be amended by written instrument signed by the Owner, the Contractor and the Authority; and

WHEREAS, Article 8 of the Contract permits Change Orders (as defined in the Contract) at the request of the Owner, Authority and/or Contractor; and

WHEREAS, the County has requested that the Parties consider certain changes to the scope of the Project (as defined in the Contract) located at the Morris County Public Safety Training Academy, as such changes are further described in **Exhibit B** attached hereto (collectively, the "Project Changes"); and

WHEREAS, the Project Changes are anticipated to cost approximately \$1,133,502.70, plus the cost of modules, racking, combiners and inverters, which amount may change based on the availability to the Authority of certain equipment at a below retail price (the "Change Order Amount"); and

WHEREAS, the Authority Construction Monitor (as defined in the EPC Contract) has considered the Project Changes and recommended that the Authority approve the Project Changes; and

WHEREAS, the Authority has sufficient funds on deposit in the Project Fund (as defined in the Contract), or in the Project Fund, together with amounts on deposit in the County Security Fund held by the Bond trustee, to provide for the original Contract Price (as defined in the Contract), plus all change orders approved prior to the date hereof, plus the Change Order Amount.

NOW, THEREFORE, BE IT RESOLVED BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY AS FOLLOWS:

Section 1. The Authority hereby consents to and approves an amendment to the Contract that replaces the existing Attachment X in its entirety with the Attachment X attached hereto as **Exhibit A**. The Chairperson of the Authority (including his designees, each an "Authorized Officer"), is hereby authorized and directed to execute and deliver such amendment in a form approved by counsel to the Authority.

Section 2. The Project Changes in an amount equal to the Change Order Amount are hereby approved. Each Authorized Officer is hereby authorized and directed, in consultation with counsel to the Authority, to execute and deliver one or more Change Orders, in the form substantially as set forth in the Contract, with such additions, modifications or deletions recommended by counsel to the Authority and agreed by the Parties. Any action taken by the Authorized Officer prior to the adoption of this resolution and consistent with this resolution, including execution of the Change Order(s) and delivery of same to the Parties, is hereby ratified, confirmed and approved, as if such action were taken on or after the date hereof.

Section 3. Subject to the second sentence of this Section 3, 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 County Board of Chosen 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 County Board of Chosen Freeholders a certification from said Clerk stating that the minutes of this meeting have not been vetoed by the Director of the County Board of Chosen Freeholders.

MOVED/SECONDED:

Resolution moved by Commissioner _____.

Resolution seconded by Commissioner _____.

VOTE:

Commissioner	Yes	No	Abstain	Absent
Gallopo				
Kovalcik				
Ramirez				
Sandman				
Bonanni				

This Resolution was acted upon at the Regular Meeting of the Authority held on September 14, 2016 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 14th day of September, 2016:

By: _____
Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of September 14, 2016.

By: _____
Matthew D. Jessup, Member
McManimon, Scotland & Baumann, LLC
Counsel to the Authority
Resolution No. 16-43

Resolution #16-43

Exhibit A

Proposed Attachment X

Exhibit B
Proposed Project Changes