

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

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**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE SETTLEMENT OF CERTAIN ADVERSARY BANKRUPTCY PROCEEDINGS IN CONNECTION WITH THE MATTER CAPTIONED *IN RE PAUL ZENSKY ELECTRICAL CONTRACTING, INC.*, CURRENTLY PENDING IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEW JERSEY**

**WHEREAS**, the Morris County Improvement Authority (the "Authority" or "MCIA") has been duly created by resolution of the County of Morris (the "County"), State of New Jersey (the "State"), and exists in good standing as a public body corporate and politic under and pursuant to all applicable law, including without limit, the New Jersey County Improvement Authorities Law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, as amended from time to time (codified at *N.J.S.A. 40:37A-44 et seq.*, and hereinafter, the "Act"); and

**WHEREAS**, Paul Zensky Electrical Contracting, Inc. ("PZEC" or "Zensky") was previously engaged in the business of electrical contracting, and, in that capacity, on August 15, 2012, entered into a contract with Power Partners MasTec, LLC ("MasTec"), pursuant to which PZEC became a subcontractor to MasTec for the provision of electrical contracting services for certain solar projects all of which were located within the **County of Somerset** (the "Somerset Projects"), and none of which involve the Authority or the County; and

**WHEREAS**, payment disputes subsequently developed in connection with the Somerset Projects, pursuant to which PZEC has asserted that it is owed not less than \$661,868.39 by MasTec for work performed and/or materials supplied by PZEC regarding the Somerset Projects; and

**WHEREAS**, subsequent to the development of these payment disputes, on September 18, 2014, PZEC filed a voluntary petition under Chapter 7 of Title 11 of the United States Code (the "Bankruptcy Code"), and Theodore Licinski, Jr. was appointed as Chapter 7 bankruptcy trustee for PZEC (the "Trustee"); and

**WHEREAS**, in connection with the Chapter 7 bankruptcy proceedings and the PZEC MasTec payment dispute, the Trustee then filed an adversary proceeding in bankruptcy, captioned *Theodore Licinski, Jr. Chapter 7 Trustee for Paul Zensky Electrical Contracting, Inc. vs. Mas Tec North America, Inc., et al*, Adv. Pro. No. 16-01717 (KCF) (hereafter, the "Trustee's Adversary Proceeding"); and

**WHEREAS**, in an abundance of caution to ensure that all potentially interested parties had notice of the Trustee's Adversary Proceeding, the Trustee named, among others, the Authority and the County as party defendants in the Trustee's Adversary Proceeding; and

**WHEREAS**, neither the Authority nor the County filed a general unsecured claim, or any other proof of claim for that matter, in connection with either the PZEC Chapter 7 case or the Trustee's Adversary Proceeding, as due diligence has confirmed that the Somerset Projects and the attendant payment dispute between PZEC and MasTec, does not involve either the County or the Authority in any way; and

**WHEREAS**, in consequence, the Trustee and legal counsel have agreed that there is no basis for either the County or the Authority to remain in the Trustee's Adversary Proceeding as party defendants, and therefore, the Trustee is willing to dismiss the Authority and the County from that Proceeding pursuant to a certain Stipulation and Consent Order, which is appended hereto and which has been approved as to form by legal counsel, such dismissal to be without any cost or expense to the Authority or the County; and

**WHEREAS**, the Authority agrees to all of the recitals set forth in this Resolution, and is desirous of resolving the Trustee's Adversary Proceeding on the terms and conditions set forth in the Stipulation and Consent Order appended hereto, all as aforesaid.

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

**Section 1.** The aforementioned recitals are incorporated herein as though fully set forth at length.

**Section 2.** Consistent therewith, the Authority hereby approves the settlement of the Trustee's Adversary Proceeding pursuant to the aforementioned recitals, and upon the terms and conditions set forth in the attached Stipulation and Consent Order.

**Section 3.** To effectuate the foregoing settlement, the Authority Chairman and such other personnel as may be required, be and hereby are authorized and directed to execute the Stipulation and Consent Order as attached, and to undertake all reasonable actions necessary and appropriate to effectuate the settlement of the Trustee's Adversary Proceeding.

**Section 4.** This resolution shall become effective, unless vetoed by the Director of the Board of Chosen Freeholders of the County in accordance with *N.J.S.A. 40:37A-50(e)* of the Act. A copy of this Resolution shall be available for public inspection at the offices of the Authority.

[Remainder of page intentionally left blank.]

**MOVED/SECONDED:**

Resolution moved by Commissioner \_\_\_\_\_.

Resolution seconded by Commissioner \_\_\_\_\_.

**VOTE:**

| <b>Commissioner</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|---------------------|------------|-----------|----------------|---------------|
|                     |            |           |                |               |
| Gallop              |            |           |                |               |
| Kovalcik            |            |           |                |               |
| Ramirez             |            |           |                |               |
| Sandman             |            |           |                |               |
| Bonanni             |            |           |                |               |

This Resolution was acted upon at the Regular Meeting of the Authority held on February 15, 2017 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 15th day of February, 2017

By: \_\_\_\_\_  
Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of February 15, 2017.

By: \_\_\_\_\_  
Matthew D. Jessup, Member, McManimon, Scotland & Baumann, LLC  
Counsel to the Authority  
Resolution No. 17-09