

RESOLUTION OF THE BOARD OF COMMISSIONERS
MORRIS COUNTY IMPROVEMENT AUTHORITY

TITLE:

**RESOLUTION AMENDING THE RESOLUTION ADOPTED ON JUNE 19, 2013
AND ENTITLED, “RESOLUTION ACCEPTING A PROPOSAL AND
AUTHORIZING AN AGREEMENT WITH NW FINANCIAL GROUP, LLC IN
CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT
AUTHORITY’S RENEWABLE ENERGY PROGRAMS AND CERTAIN OTHER
MATTERS RELATED THERETO”**

WHEREAS, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 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 (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

WHEREAS, the Authority has developed a program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the “*Local Units*”), all as an authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

WHEREAS, On February 18, 2010 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 Renewable Energy Projects in connection with the initial tranche of the Authority’s Renewable Energy Program (“*Morris Solar Tranche I Program*”);

WHEREAS, on December 9, 2011 the Authority issued its (i) “County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated December 8, 2011, in the aggregate principal amount of \$33,100,000 (the “*Morris Series 2011A Bonds*”) and its (ii) “County of Morris Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” dated May 15, 2012, in the aggregate principal amount of \$1,200,000 (the “*Morris Series 2011B Note*”, and together with the Morris Series 2011A Bonds, the “*Morris Series 2011 Bonds*”), which Morris Series 2011B Note is held in its entirety by Morris County, to finance Renewable Energy Projects (the “*Morris Solar Tranche II Program*”) and

WHEREAS, on December 14, 2011 the Authority issued, on behalf of the County of Sussex, Jersey (“*Sussex County*” and together with Morris County, the “*Counties*”) its (i) “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated December 14, 2011, in the aggregate principal amount of \$26,715,000 (the “*Sussex Series 2011A Bonds*”) and its (ii) “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” dated December 14, 2011, in the aggregate principal amount of \$985,000 (the “*Sussex Series 2011B Note*” and together with the Series 2011A Bonds, the “*Sussex Series 2011 Bonds*”), which Sussex Series 2011B Note is no longer Outstanding as of the date hereof (the “*Sussex Solar Program*” and together with the Morris Solar Tranche I Program and the Morris Solar Tranche II Program, the “*Outstanding Renewable Energy Programs*”); and

WHEREAS, due to the decrease in the Solar Energy Renewable Credit (“*SREC*”) market, the uncertainty of the SREC market going forward and ongoing litigation with the solar developer in the Morris Solar Tranche II Program and the Sussex Solar Program, the Authority, Morris County and Sussex County desire to explore options to ensure the success of the Outstanding Renewable Energy Programs and limit the exposure to the guaranties issued by Morris County and Sussex County;

WHEREAS, NW Financial Group, LLC (“*NW*”) submitted to the Authority a proposal to provide financial advisory services with respect to the Outstanding Renewable Energy Programs (the “*NW Proposal*”);

WHEREAS, on June 19, 2013 the Authority adopted a resolution (the “*NW Authorizing Resolution*”) entitled, “RESOLUTION ACCEPTING A PROPOSAL AND AUTHORIZING AN AGREEMENT WITH NW FINANCIAL GROUP, LLC IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY’S RENEWABLE ENERGY PROGRAMS AND CERTAIN OTHER MATTERS RELATED THERETO” authorizing an agreement (the “*NW Services Agreement*”) setting forth the terms of the NW Proposal in an amount not to exceed \$10,000;

WHEREAS, due to the (i) unique nature of the services rendered by NW and (ii) long history of providing services in connection with the Authority’s Renewable Energy

Program, the Authority accepted the NW Proposal, subject to receipt of the requisite forms, on a non-fair and open basis in accordance with N.J.S.A. 19:44A-20.4 *et seq.* and awarded the contract pursuant to N.J.S.A. 40A:11-5(1)(A)(ii) and the applicable regulations regarding the procurement of extraordinary unspecifiable services (collectively, the “*EUS Law*”); and

WHEREAS, since the date of adoption of the NW Authorizing Resolution it has become apparent that the scope of work will be more voluminous than originally anticipated and therefore the Authority desires to increase the not to exceed amount originally authorized by the NW Authorizing Resolution (the “*Amended NW Proposal*”).

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

Section 1. Pursuant to the EUS Law the NW Services Agreement is hereby amended (the “*Amended NW Services Agreement*”) to increase the fee paid to NW in an amount not to exceed \$50,000.

Section 2. The Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an “*Authorized Officer*”) are hereby severally authorized and directed to (a) execute an Amended NW Services Agreement, as deemed necessary, desirable and convenient and determined to be in the best interest of the Authority and the Counties by the Authorized Officer, after consultation with Inglesino, Pearlman, Wyciskala & Taylor, LLC (the “*Consultant*”), all in accordance with applicable law and upon receipt of all requisite forms to comply with a non-fair and open basis in accordance with N.J.S.A. 19:44A-20.4 *et seq.* and (b) take such actions as are required in connection with the EUS Law to effect such contract, including without limitation publication thereof.

Section 3. All actions taken to date by the Authority and the Consultant in connection with the NW Proposal are hereby ratified, confirmed and approved, and the Authorized Officers and the Consultant are hereby severally authorized and directed to research, develop and implement the best course of action with respect to the NW Proposal.

Section 4. 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 Morris County Board of Freeholders and the Sussex County Board of Chosen Freeholders, by the end of the fifth business day following this meeting or as soon as possible thereafter, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain a statement from the Clerk of the Morris County Board of Freeholders and the Clerk of the Sussex County Board of Chosen Freeholders stating that the minutes of this meeting have not been vetoed by the Director of the Morris County Board of Freeholders or the Director of the Sussex County Board of Chosen Freeholders.

Section 5. This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

MOVED/SECONDED:

Resolution moved by Commissioner _____.

Resolution seconded by Commissioner _____.

VOTE:

Commissioner	Yes	No	Abstain	Absent
Pinto				
Ramirez				
Roe				
Sandman				
Bonanni				

ATTESTATION:

This Resolution was acted upon at the Regular Meeting of the Authority held on December 18, 2013 at the Authority’s principal corporate office in Morristown, New Jersey.

Attested to this 18th day of December, 2013

By: _____

Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of December 18, 2013

By: _____

**Stephen B. Pearlman, Esq., Partner
Inglesino, Pearlman, Wyciskala & Taylor, LLC
Counsel to the Authority**

EXHIBIT A

[Attach Form of Amended NW Proposal]

