

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

TITLE:

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY
AUTHORIZING PARTICIPATION IN MEDIATION AND THE PAYMENT OF
MEDIATION FEES IN CONNECTION WITH TRANCHE II OF THE AUTHORITY'S
RENEWABLE ENERGY PROGRAM**

WHEREAS, the Morris County Improvement Authority (including any successors and assigns, the "*Morris Authority*") has been duly created by resolution duly adopted by the Board of Chosen Freeholders (the "*Morris Board of Freeholders*") of the County of Morris ("*Morris 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 the Program Documents (the "*Morris Program Documents*") defined in the hereinafter defined Morris Bond Resolution, including that certain resolution number 11-31 entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF MORRIS GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Morris Authority on July 20, 2011, as amended and supplemented from time to time in accordance with its terms, including by Certificates of an Authorized Officer of the Morris Authority dated December 8, 2011 and May 15, 2012, (collectively, and as the same may be further amended or supplemented in accordance with its terms, the "*Morris Bond Resolution*"), the Act and other applicable law and official action, the Morris 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 the Renewable Energy Projects (the "*Morris Renewable Energy Projects*") defined therein (certain capitalized terms herein not otherwise defined herein relating to the Morris Series 2011 Bonds, for all purposes herein, shall have the meanings ascribed to such terms in the Morris Bond Resolution); and

WHEREAS, pursuant to the Program Documents (the "*Sussex Program Documents*", and together with the Morris Program Documents, the "*Program Documents*") defined in the hereinafter defined Sussex Bond Resolution, including that certain resolution number 11-39 entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX

GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” adopted by the governing body of the Morris Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by a Certificate of an Authorized Officer of the Morris Authority dated December 14, 2011 (collectively, and as the same may be further amended or supplemented in accordance with its terms, the “*Sussex Bond Resolution*” and together with the Morris Bond Resolution, the “*Bond Resolutions*”), the Act and other applicable law and official action, the Morris Authority issued 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*”, which Sussex Series 2011B Note is no longer Outstanding as of the date hereof, and together with the Series 2011A Bonds, the “*Sussex Series 2011 Bonds*”) to finance the Renewable Energy Projects (the “*Sussex Renewable Energy Projects*”, and together with the Morris Renewable Energy Projects, the “*Renewable Energy Projects*”) defined therein (any capitalized terms herein not otherwise defined herein, relating to the Sussex Series 2011 Bonds, for all purposes herein, shall have the meanings ascribed to such terms in the Sussex Bond Resolution); and

WHEREAS, the Company Parties were selected to develop the respective Renewable Energy Projects under the Program Documents by competitive processes of the Morris Authority; and

WHEREAS, the respective Company Parties engaged in arbitrations before the American Arbitration Association with the EPC Contractor, Power Partners Mastec, LLC (“*Mastec*”), with respect to the Morris Renewable Energy Projects and the Sussex Renewable Energy Projects (the “*Arbitrations*”), to which no governmental entity associated with the Renewable Energy Projects was a party; and

WHEREAS, in connection with the dispute between the Company Parties and Mastec, Mastec filed a law suit against the Authority in the United States District Court for the District of New Jersey, seeking damages against the Authority on a variety of legal theories, for work performed pursuant to its contract with the respective Company Parties (the “*Federal Suit*”);

WHEREAS, the presiding judge in the Federal Suit has implored all parties to engage in non-binding mediation (the “*Mediation*”) before a mediator mutually agreeable to the parties, in an effort to resolve the Federal Suit without further litigation;

WHEREAS, the proposed costs of the Mediation include a fee of \$275 per participant and \$675 per hour for the mediator. To cover the mediator’s hourly fee, the proposed mediator has disbursed invoices seeking a retainer in the amount of \$15,400, 1/6 of the cost of which is to be paid by each of the following:

- A. Mastec;
- B. the Company Parties;

- C. Morris County;
- D. Somerset County;
- E. Sussex County; and
- F. the Morris Authority and the Somerset County Improvement Authority (SCIA), resulting in 1/12 of the cost being borne by each the Morris Authority and the SCIA.

WHEREAS, based on the foregoing and the invoices disbursed by the mediator, the anticipated cost for the Morris Authority's participation in the Mediation is approximately \$1,420.83; however, the actual costs will not be ascertainable until the Mediation is completed; and

WHEREAS, it is in the best interests of Morris County and the Authority to participate in the Mediation;

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

Section 1. The Chairperson, Vice-Chairperson and the Treasurer of the Morris Authority (including their designees, each an "*Authorized Officer*") are each hereby severally authorized and directed to participate in the Mediation. The Authorized Officers are further authorized to direct the Morris Authority consultants to participate in the Mediation, if, in the Authorized Officers sole discretion, such participation is deemed necessary, desirable or convenient. Such Morris Authority consultants include, but are not limited to, special energy and bond counsel, Inglesino, Wyciskala & Taylor, LLC ("*IWT*"), IWT's agent, Pearlman & Miranda, LLC, energy consultant Gabel Associates, Inc., and financial advisor NW Financial Group, LLC.

Section 2. The Authorized Officer of the Morris Authority is hereby authorized to take all such further actions in connection herewith, and to execute and deliver such other documents, certificates and instruments necessary, desirable or convenient, in consultation with counsel, to effectuate the Morris Authority's participation in the Mediation, including payment of the Morris Authority's share of the Mediation fees.

Section 3. All actions taken to date by the Morris Authority, the Authorized Officers and the Morris Authority's special energy and bond counsel, Inglesino, Wyciskala & Taylor, LLC, through their Agent, Pearlman & Miranda, LLC, with respect to the matters set forth in or contemplated by this resolution are hereby ratified, confirmed and approved.

Section 4. In accordance with N.J.S.A. 40:37A-50, the Secretary of the Morris Authority is hereby authorized and directed to submit to each member of the Morris 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 Morris Board of Freeholders a certification from the Clerks stating that the minutes of this meeting have not been vetoed by the Director of the Morris Board of Freeholders.

MOVED/SECONDED:

Resolution moved by Commissioner _____.

Resolution seconded by Commissioner _____.

VOTE:

| Commissioner | Yes | No | Abstain | Absent |
|---------------------|------------|-----------|----------------|---------------|
| Kovalcik | | | | |
| Pinto | | | | |
| Ramirez | | | | |
| Sandman | | | | |
| Bonanni | | | | |

ATTESTATION:

This Resolution was acted upon at a regular meeting of the Morris Authority held on October 15, 2014 at the Morris Authority’s principal corporate office in Morristown, New Jersey.

Attested to this 15th day of October, 2014

By: _____
Secretary of the Morris Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of October 15, 2014

By: _____
Stephen B. Pearlman, Esq., Partner
Pearlman & Miranda, LLC
Counsel to the Morris Authority
Agent for Inglesino, Wyciskala & Taylor, LLC