

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

TITLE:

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY
AUTHORIZING THE USE FOR LITIGATION OF MORRIS COUNTY'S SPECIAL
COUNSEL IN CONNECTION WITH TRANCHE II OF THE AUTHORITY'S
RENEWABLE ENERGY PROGRAM AND THE EXECUTION OF AN AGREEMENT
WITH MORRIS COUNTY

WHEREAS, the Morris County Improvement Authority (the "*Authority*") 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 the 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., the "*Act*");

WHEREAS, in order to carry out the operations of the Authority, the Authority needs to contract for the certain services, including legal counsel;

WHEREAS, as of January 1, 2006, N.J.S.A. 19:44A-20.1 *et seq.*, commonly known as the "*State Pay to Play Law*" became effective;

WHEREAS, pursuant to the State Pay to Play Law, the Authority may not award contracts with a value in excess of \$17,500.00, including a contract for legal counsel services, to a business entity, including legal counsel, which has made reportable contributions in excess of \$300.00, in the aggregate, to certain political parties or candidate committees of persons serving in an elective public office when such contract was awarded, unless said business entity is awarded a contract under a "fair and open process" pursuant to the State Pay to Play Law;

WHEREAS, a "fair and open process" constitutes the following: (i) public advertisement on the Authority's website or in the newspaper of a Request for Qualifications (hereinafter the "*RFQ*") with ten (10) calendar days notice prior to the receipt of responses to the RFQ; (ii) award of contract under a process that provides for public solicitation of qualifications; (iii) award of contract under publicly disclosed criteria established, in writing, by the Authority prior to the solicitation of qualifications; and (iv) the Authority shall publicly open and announce the qualifications when awarded;

WHEREAS, the Authority desired to appoint legal counsel through a “fair and open process”, and accordingly, the Authority posted a request for qualifications for legal counsel services (the “*Legal Counsel RFQ*”) on August 21, 2014;

WHEREAS, the deadline for responses to the to the Legal Counsel RFQ (the “*RFQ Deadline*”) was September 3, 2014, a date ten days after the posting of the Legal Counsel RFQ to the Authority website;

WHEREAS, on September 24, 2014, the Authority appointed Pearlman & Miranda, LLC as General, Special Energy, and Bond Counsel to the Authority for a one year period commencing on October 30, 2014;

WHEREAS, pursuant to the Program Documents (the “*Program Documents*”) defined in the hereinafter defined 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 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 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 “*Bond Resolution*”), the Act and other applicable law and official action, 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 “*Series 2011B Note*”, and together with the Morris Series 2011A Bonds, the “*Series 2011 Bonds*”), which Series 2011B Note is held in its entirety by Morris County, to finance the Renewable Energy Projects (the “*Renewable Energy Projects*”) defined therein (certain capitalized terms herein not otherwise defined herein relating to the Series 2011 Bonds, for all purposes herein, shall have the meanings ascribed to such terms in the Bond Resolution); and

WHEREAS, the Authority is involved in litigation in both New Jersey State Court and the United States District Court for the District of New Jersey relating to the Second Tranche of the Authority’s Renewable Energy Program, as defined in 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 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 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

“*Bond Resolution*”) (including any actions not yet brought by the Authority or any other parties, relating to, or arising from, the Renewable Energy Program, the “*Solar Litigation*”);

WHEREAS, the Authority’s counsel as of October 30, 2014, Pearlman & Miranda, LLC, does not have litigation counsel on staff, and the Authority requires litigation counsel to represent its interests in the Solar Litigation;

WHEREAS, the law firm of McManimon, Scotland & Bauman, LLC serves as special counsel to the County (the “*County Special Counsel*”) with respect to the Solar Litigation, and has litigation counsel on staff; and

WHEREAS, in order to achieve cost savings by not employing an independent procurement process, the Authority desires to utilize the County Special Counsel as special litigation counsel to represent the Authority’s interests in the Solar Litigation (the “*Authority Litigation Services*”) pursuant to the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the “*Shared Services Act*”);

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

Section 1. The Authority hereby agrees to make shared use of the services of the County Special Counsel for the performance of the Authority Litigation Services, on the same terms as those contained in the professional services agreement between the County and the County Special Counsel; however, such agreement by the Authority shall not be deemed effective until: 1) the finalization of an appropriation by the Authority to make payment for such Authority Litigation Services, or the finalization of an appropriation by the County to make payment for such Authority Litigation Services in accordance with N.J.S.A. 40:37A-79, and in the case of an appropriation by the County, the filing of such appropriation with the Authorized Officer (as defined in Section 2 hereof) of the Authority; and 2) agreement by the County to make shared use of the services of the County Special Counsel (the “*County Agreement*”).

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 execute and deliver, in their sole discretion, after consultation with counsel, such certificates, instruments or documents, as any such Authorized Officer shall deem necessary, convenient or desirable by any such Authorized Officer to make shared use of the services of the County Special Counsel, including, without limitation, such documents for appropriation for the Authority Litigation Services, if applicable. The determination of the need for an appropriation for the Authority Litigation Services shall be made by the Authorized Officer upon consultation with the County.

Section 3. Upon the adoption of this resolution and the satisfaction of all conditions precedent as stated herein, this resolution, together with the County Agreement, shall constitute a shared services agreement between the Authority and the County pursuant to the Shared Services Act (the “*Shared Services Agreement*”).

Section 4. The Authorized Officers are hereby authorized to take all such further actions in accordance with all applicable law, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the Shared Services Agreement.

Section 5. All actions taken to date by the Authority, the Authorized Officers and the 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 6. 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, 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 County Board of Freeholders a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Morris County Board of Freeholders.

[Remainder of page intentionally left blank.]

Section 7. 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
Gallopo				
Kovalcik				
Ramirez				
Sandman				
Bonanni				

ATTESTATION:

This Resolution was acted upon at the special meeting of the Authority held on October 29, 2014 at the Authority’s principal corporate office in Morristown, New Jersey.

Attested to this ___ day of _____, 2014

By: _____

Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of October 29, 2014.

By: _____

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