

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

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**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
RATIFYING THE TRANSFER OF FUNDS IN CONNECTION WITH THE  
MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF MORRIS  
GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE  
BONDS, SERIES 2009A AND CERTAIN OTHER MATTERS RELATED  
THERE TO**

**WHEREAS**, the Morris County Improvement Authority (including any successors and assigns, the "*Authority*") has been duly created by resolution duly adopted by the Board of Chosen Freeholders (the "*Board of Freeholders*") of the County of Morris (the "*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 that certain resolution entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2009A AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on June 10, 2009, as amended and supplemented from time to time in accordance with its terms, including by a Certificate of an Authorized Officer of the Authority dated February 18, 2010 (the "*Bond Resolution*"; (capitalized terms used herein and not otherwise defined herein, for all purposes of this Resolution, shall have the meanings ascribed to such terms in the Bond Resolution), the Act and other applicable law and official action, 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 the Renewable Energy Projects for the Series 2009A Local Units as set forth in the various Program Documents in connection with the initial tranche of the Authority's Renewable Energy Program ("*Tranche I*"); and

**WHEREAS**, Tioga Solar Morris County 1, LLC, a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the "*Company*" or "*Tioga Morris*", and together with the Authority, the Series 2009 Local Units, the "*Parties*") was selected by the Authority pursuant to a competitive process pursuant to (a) the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A.

40A:11-4.1(k)), (b) the State Pay to Play Law, N.J.S.A.19:44A-20.1 *et seq.*, (c) with respect to the Board of Education Series 2009A Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State, and (d) on behalf of the County Series 2009A Local Units, the State College Contracts Law (N.J.S.A. 18A:64-52 *et seq.*), all pursuant to (i) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services* (“*LFB Notice 2008-20*”), (ii) the Board of Public Utilities protocol for measuring energy savings in PPA Agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009*), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements* (the “*LFB Notice 2009-10*”, and together with LFB Notice 2008-20, the “*Local Finance Board Notices*”) and applicable law; and

**WHEREAS**, in connection with Tranche I, the County and the Authority entered into that certain “County Guarantee Agreement (Morris County Renewable Energy Program, Series 2009A,” dated February 1, 2010 (the “*County Guarantee*”) pursuant to which the County guaranteed the payment of all principal of and interest on the Series 2009A Bonds; and

**WHEREAS**, on April 30, 2013 Tioga Energy, Inc., the managing member of Tioga Morris assigned (the “*Initial Assignment to ABC*”) all of its membership interest in Tioga Morris to Tioga Energy (Assignment for the Benefit of Creditors) LLC (“*Tioga Energy ABC*”);

**WHEREAS**, pursuant to the Company Lease Agreement, a Basic Lease Payment in the amount of \$1,800,172.80 was payable by Tioga Morris on March 15, 2015; and

**WHEREAS**, as of March 15, 2015, there was \$221,337.51 on deposit in the Aged Revenue Fund as a credit toward the March 15, 2015 Basic Lease Payment;

**WHEREAS**, as of the date of this resolution, Tioga Morris has insufficient funds available to satisfy the remaining \$1,578,835.29 portion of the March 15, 2015 Basic Lease Payment;

**WHEREAS**, as of April 10, 2015, there was \$2,227,996.00 on deposit in the County Security Fund;

**WHEREAS**, on April 10, 2015, the Authority delivered a certificate to the Trustee, executed by an authorized officer of each of the Authority and the County, directing that \$1,578,835.29 be transferred from the County Security Fund to the Aged Revenue Fund to cover the shortfall in connection with the March 15, 2015 Basic Lease Payment (the “*County Security Fund Transfer*”);

**WHEREAS**, pursuant to the County Continuing Disclosure Agreements and applicable federal securities laws referenced therein, the Authority is required to provide the Trustee with a notice of a Bond Disclosure Event (the “*Material Events Notice*”), to be posted with the Municipal Securities Rulemaking Board (the “*MSRB*”), notifying the market of the County Security Fund Transfer;

**WHEREAS**, by resolutions of the Authority duly adopted on December 22, 2014 and January 21, 2015, respectively (the “*SREC Purchase and Sale Resolutions*”), the Authority authorized certain contracts with Tioga Morris for the purchase and sale of solar renewable energy certificates (“*SRECs*”);

**WHEREAS**, pursuant to the SREC Purchase and Sale Resolutions, the Authority entered two contracts with Tioga Morris to purchase SRECs (the “*SREC Purchase Contracts*”), and the Authority entered a contract with each of TransCanada Power Marketing LTD and Just Energy (US) Corp. for the sale of said SRECs (the “*SREC Sale Contracts*”), and a copy of the SREC Purchase Contracts and SREC Sale Contracts are attached hereto as Exhibit A;

**WHEREAS**, the Authority has received the proceeds of the SREC Sale Contracts, cumulatively totaling \$901,010.00, which are to be disbursed in accordance with the SREC Purchase Contracts;

**WHEREAS**, pursuant to Resolution No. 14-41, duly adopted by the Authority on November 17, 2014, the Authority recommended that Tioga Energy ABC cause Tioga Morris to undertake completion of certain repairs at Boonton High School and Mennen Arena;

**WHEREAS**, Tioga Energy ABC has determined that additional repairs at Boonton High School and Mennen Arena are advisable, including replacement of snow guards and ice guards, and the installation of snow jacks (the “*Supplemental Repair Work*”), and Tioga Morris has obtained a quote in the amount of \$42,500.00 for the Supplemental Repair work to be performed; and

**WHEREAS**, Tioga Energy ABC has requested the Authority’s position with respect to the performance of the Supplemental Repair Work.

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

**Section 1.** The Authority hereby ratifies, confirms, and approves the County Security Fund Transfer.

**Section 2.** The Chairperson and the Treasurer of the Authority (including their designees, each an “*Authorized Officer*”) are hereby authorized and directed, in consultation with counsel, to cause the Material Events Notice to be prepared and transmitted to the Trustee for filing with the MSRB, the final form of which shall be determined in the sole discretion of the Authorized Officers.

**Section 3.** Pursuant to and in accordance with the SREC Purchase Contracts, the Authorized Officers are hereby directed to allocate the proceeds of the SREC Sale Contracts as follows:

1. \$414,500.00 to be remitted to Tioga Energy ABC to cover Tioga Morris ongoing expenses and to establish a reserve to fund contingency items that may arise from time to time;
2. \$388,384.11 to be transferred to the County Security Fund;
3. \$90,277.39 to be transferred to the Administrative Expense Account;
4. \$7,348.50 to be paid to the BGC Group (SREC brokerage fees); and
5. \$500.00 to be paid to GATS.

**Section 4.** The Authority hereby determines to recommend to Tioga Energy ABC that Tioga Morris undertake the Supplemental Repair Work to be paid for out of funds on hand with Tioga Morris.

**Section 5.** The Authorized Officers are hereby authorized and directed to take all further actions, and to execute such certificates, instruments or documents, deemed necessary, convenient or desirable by any such Authorized Officer, in consultation with counsel, in connection with all matters set forth in or contemplated by this resolution.

**Section 6.** All actions taken to date by the Authority, the Authorized Officers, the Authority's special energy and bond counsel Pearlman & Miranda, LLC, and the Authority's construction manager, Gabel Associates, Inc., with respect to all matters set forth in or contemplated by this resolution, including, but not limited to, the County Security Fund Transfer, and the entering of the SREC Sale Contracts and SREC Purchase Contracts are hereby ratified, confirmed and approved.

**Section 7.** Reserved.

[Remainder of page intentionally left blank]

**Section 8.** Subject to the second sentence of this section, 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 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 Board of Freeholders a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the 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 the Regular Meeting of the Authority held on April 16, 2015 at the Authority’s principal corporate office in Morristown, New Jersey.

Attested to this 16th day of April, 2015

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

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of April 16, 2015

By: \_\_\_\_\_  
**Stephen B. Pearlman, Esq., Partner**  
**Pearlman & Miranda, LLC**  
**Counsel to the Authority**