

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

TITLE:

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY DELEGATING TO THE CHAIRPERSON OF THE AUTHORITY THE POWER TO APPROVE MINOR CAPITAL REPAIRS IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM, TRANCHE I

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 and 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, Tioga Energy ABC has previously requested that the Authority, as creditor of Tioga Energy, Inc., provide the Authority's position with respect to actions taken by Tioga Energy ABC and Tioga Energy, Inc. in connection with Tranche I; and

WHEREAS, from time to time, capital improvements to Tranche I are required; and

WHEREAS, any individual capital improvement in the amount of \$2,500.00 or less shall constitute a "Minor Capital Improvement" for purposes of this Resolution; and

WHEREAS, Tioga Energy ABC and Tioga Energy, Inc. will not undertake any capital improvement without first receiving from the Authority its' position with respect to same; and

WHEREAS, the Authority only meets from time to time to discuss and take applicable action to evidence the Authority's position with respect to such capital improvements; and

WHEREAS, any delay in completion of such capital improvements can lead to greater operational costs, fees for service calls to perform temporary improvements, and other expense; and

WHEREAS, in an effort to maximize administrative and cost efficiencies and to control the cost to operate, maintain and repair Tranche I, the Authority desires to delegate to the Chairperson of the Authority, in consultation with the Authority's energy consultant, counsel and other professionals, the power to review each Minor Capital Improvement and, if applicable, to recommend to Tioga Energy ABC that it cause Tioga Energy, Inc. to make each such Minor Capital Improvement, without further action of the Authority; and

WHEREAS, the Chairperson of the Authority shall report in writing to the Authority from time to time, the date, description and cost of each such Minor Capital Improvement.

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

Section 1. The Chairperson of the Authority is hereby authorized and directed, in consultation with the Authority's energy consultant, counsel and other professionals of the Authority, to review each Minor Capital Improvement, as and when presented to the Authority by Tioga Energy ABC and/or Tioga Energy, Inc., and, if applicable, to recommend to Tioga Energy ABC that it cause Tioga Energy, Inc. to make such Minor Capital Improvement. The Chairperson of the Authority is further directed to report in writing to the Authority from time to time, the date, description and cost of each such Minor Capital Improvement, and the reason for the recommendation to either proceed or not proceed with such Minor Capital Improvement.

Section 2. The Chairperson of the Authority is hereby authorized and directed to take all further actions, and to execute such certificates, instruments or documents, deemed necessary, convenient or desirable by such Chairperson, in consultation with counsel, in connection with all matters set forth in or contemplated by this Resolution.

Section 3. 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.

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MOVED/SECONDED:

Resolution moved by Commissioner _____.

Resolution seconded by Commissioner _____.

VOTE:

Commissioner	Yes	No	Abstain	Absent
Gallopo				
Kovalcik				
Ramirez				
Sandman				
Bonanni				

This Resolution was acted upon at the Regular Meeting of the Authority held on July 7, 2015 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 7th day of July, 2015

By: _____
Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of July 7, 2015.

By: _____
Matthew D. Jessup, Member, McManimon, Scotland & Baumann, LLC
Counsel to the Authority
Resolution No. 15-34