

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

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*TITLE:*

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING ENTRY INTO A DECOMMISSIONING AGREEMENT WITH THE WEST MORRIS REGIONAL HIGH SCHOOL DISTRICT IN CONNECTION WITH THE MORRIS COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2009A**

**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 County Commissioners 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, and other applicable law; and

**WHEREAS**, in 2009, the Authority created a program to facilitate and finance the design, permitting, acquisition, construction, installation, operation and maintenance of solar renewable energy projects (the "Renewable Energy Projects") at multiple county, municipal and board of education facilities located throughout the County (each, a "Local Unit" and collectively, the "Local Units"); and

**WHEREAS**, the Renewable Energy Projects were installed on, in, affixed or adjacent to Local Unit facilities in the County; and

**WHEREAS**, in accordance with a request for proposal process, the Authority selected and designated Tioga Solar Morris County 1, LLC (the "Company") as the successful respondent, and the Authority and the Company thereafter entered into a Lease Purchase Agreement, dated as of February 1, 2010 (as the same may be amended and supplemented from time to time, the "Lease Agreement"), and certain other agreements with the Company and others in furtherance thereof; and

**WHEREAS**, the Authority entered into a "License and Access Agreement (Morris County Renewable Energy Program, Series 2009A) " dated as of February 1, 2010 with each Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit facilities of each such Local Unit, most particularly their roofs and/or grounds, as applicable, and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit facilities; (iii) receive the right to the renewable energy produced from the Renewable Energy Projects, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Local Units, pursuant to an assignment from the Authority to the Local Units of the hereinafter defined Power Purchase Agreement; and

**WHEREAS**, the Authority and the West Morris Regional High School District (the “West Morris BOE”) entered into the License and Access Agreement; and

**WHEREAS**, pursuant to Exhibit A of the License and Access Agreement, the West Morris Local Unit Facilities (as defined in the License and Access Agreement) includes, among others, West Morris Mendham High School ("Mendham High School"); and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program (as defined in the Lease Agreement) generate energy and revenues, with such revenues being principally derived from (i) the sale of electric energy to the Local Units under a Power Purchase Agreement, dated as of February 1, 2010 (the "Power Purchase Agreement"), by and between the Company, the Authority and, by assignment, the Local Units, and (ii) the sale of Solar Renewable Energy Certificates (the "SRECs") to utilities; and

**WHEREAS**, Tioga Energy, which was engaged in the solar energy business throughout the United States, advised the Authority that, on April 30, 2013, it (not the Company) transferred ownership of all of its right, title and interest in, to and under all of its tangible and all of its intangible assets, including, but not limited to, its interest in the Company, to Tioga Energy (Assignment for the Benefit of Creditors), LLC, Solely as Assignee for the Benefit of Creditors of Tioga Energy, Inc. (the "Assignee"), pursuant to the laws of the State of California, and thereby created an assignment estate; and

**WHEREAS**, the Company failed to make Lease Payments then due and owing to the Authority pursuant to the terms of Section 301 of the Lease Agreement, each of which failure constituted an Event of Default pursuant to Section 1001 of the Lease Agreement; and

**WHEREAS**, as a result of the incurrence and continuance of the Events of Default by the Company, the Authority exercised the remedies available to it pursuant to Section 1002 of the Lease Agreement, including, without limitation, (i) terminating the Lease Agreement, (ii) taking possession of the Renewable Energy Projects, the SRECs and any other portion of the Leased Property (as defined in the Lease Agreement), and (iii) assuming all of the Company's rights under the Power Purchase Agreement and the License Agreements (as defined in the Lease Agreement); and

**WHEREAS**, pursuant to the terms of that certain Default and Assignment Agreement, dated as of December 1, 2019 (the "Default Agreement"), by and among the Authority, the Company and the Assignee, neither the Company nor the Assignee contested that the Events of Default have occurred and were continuing, nor did either protest the Authority's decision to exercise available remedies under the Lease Agreement, including, without limitation, those described above; and

**WHEREAS**, pursuant to the terms of that certain Assignment of Agreements, dated as of December 1, 2019 (the "Assignment"), from the Company to the Authority, the Company assigned (and the Authority assumed) all of its right, title and interest in and to certain Solar Renewable Energy Certificate Purchase and Sale Agreements by and between the Company and Jersey Central Power & Light Company; and

**WHEREAS**, pursuant to Section 3.1(a) of the Power Purchase Agreement and Section 7.1(b)(ii) of the License and Access Agreement, the term of the Renewable Energy Project at Mendham High School shall end on or about February 18, 2026; and

**WHEREAS**, the West Morris BOE has determined to have the Authority remove the Renewable Energy Project at Mendham High School in accordance with the terms of Section 3.7(b) of the Power Purchase Agreement, which would require the Authority to remove such Renewable Energy Project by August 17, 2026 (the "Authority Removal Date"); and

**WHEREAS**, the West Morris BOE has one or more planned capital improvements it wishes to undertake at Mendham High School prior to the Authority Removal Date and has requested that the Authority consent to the West Morris BOE undertaking the decommissioning and removal of the Renewable Energy Project at Mendham High School at its own cost, subject to reimbursement by the Authority as provided in the hereinafter defined Decommissioning Agreement; and

**WHEREAS**, the Authority wishes to consent to the West Morris BOE undertaking the decommissioning and removal of the Renewable Energy Project at Mendham High School (the "West Morris Removal Project") and further wishes to enter into a Decommissioning Agreement with the West Morris BOE for the express intent and purpose of permitting the West Morris Removal Project (the "Decommissioning Agreement"); and

**WHEREAS**, upon completion of the West Morris Removal Project, the Parties wish to terminate the Power Purchase Agreement, License and Access Agreement and all other documents and agreements entered into in connection with the development, operation, maintenance, management and removal of the Renewable Energy Project at Mendham High School.

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

**Section 1.** The recitals to this resolution are hereby incorporated by reference as if set forth in full herein.

**Section 2.** The Authority hereby approves the Decommissioning Agreement and the West Morris Removal Project. The Chairwoman of the Authority is hereby authorized and directed to execute the Decommissioning Agreement in the form on file in the office of the Authority, together with such changes, omissions or amendments as the Chairwoman deems appropriate in consultation with the Authority's counsel, and such officer's signature on such Decommissioning Agreement shall be conclusive as to all such determinations. Upon execution, the Secretary of the Authority is hereby authorized and directed to attest to the Chairwoman's signature and to deliver an executed copy of such Decommissioning Agreement to the other party thereto.

**Section 3.** The Chairwoman of the Authority is hereby authorized and directed to take any action and to execute any document, certificate, agreement or instrument necessary to effectuate the transaction contemplated by this resolution, including any such document, certificate, agreement or instrument necessary to terminate the Power Purchase Agreement, License and Access Agreement and all other documents and agreements entered into in connection

with the development, operation, maintenance, management and removal of the Renewable Energy Project at Mendham High School.

**Section 4.** 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 County Commissioners, 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 County Commissioners a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Board of County Commissioners.

[Remainder of page intentionally left blank]

**MOVED/SECONDED:**

Resolution moved by Commissioner \_\_\_\_\_.

Resolution seconded by Commissioner \_\_\_\_\_.

**VOTE:**

<b>Commissioner</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Leary				
Ramirez				
Bauer				
Sandman				
Happer				

This Resolution was acted upon at the Regular Meeting of the Authority held remotely on February 18, 2026 by audio and video in accordance with notice promulgated by the Authority in accordance with applicable law.

Attested to this 18th day of February, 2026

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

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of February 18, 2026.

By: \_\_\_\_\_  
Matthew D. Jessup, Esq.  
Member, McManimon, Scotland & Baumann, LLC  
Counsel to the Authority  
Resolution No. 26-10