



UNION COUNTY IMPROVEMENT AUTHORITY

Resolution No. 50-2021
Adoption Date: March 10, 2021

No Sufficiency of Funds Required Bibi Taylor
Form and Legality David Minichello

AUTHORIZING AN AMENDMENT TO THE ORIGINAL SITE LICENSE AGREEMENTS AND ORIGINAL POWER PURCHASE AGREEMENT EXECUTED IN CONNECTION WITH THE UNION COUNTY IMPROVEMENT AUTHORITY'S 2011 RENEWABLE ENERGY PROGRAM

WHEREAS, the Union County Improvement Authority (the "Authority") has been duly created by ordinance of the Board of Chosen Commissioners of the County of Union, a public body corporate and politic of the State of New Jersey pursuant to and in accordance with the County Improvement Authority Law, N.J.S.A. 40:37A-44 et seq.; and

WHEREAS, the Authority developed a program (the "Renewable Energy Program") that involves the financing, design, permitting, acquisition, construction, installation, operation, and maintenance of thirty (30) photovoltaic renewable energy projects (the "Renewable Energy Projects"), which consists of approximately 3.337 megawatts of capacity, initially installed in or about 2011 or 2012 across a total of thirty (30) Local Unit (as hereinafter defined) sites (the "Solar Projects") throughout Union County (the "County") for and on behalf of local government units within the County, including, without limitation, municipalities, boards of education, school districts, colleges, vocational schools, and jointure commissions (individually a "Local Unit" and collectively, the "Local Units"); and

WHEREAS, in connection therewith: (i) Tioga Solar Union County 1, LLC (including any successors and assigns thereof, the "Company"), the Authority, and each Local Unit entered into a Site License Agreement, dated May 1, 2011 (individually on behalf of each Local Unit, the "Original Site License Agreement" and collectively, the "Original Site License Agreements"); and (ii) the Company, the Authority and the Local Units, entered into that certain Power Purchase Agreement, dated May 1, 2011 (the "Original Power Purchase Agreement" and together with the Original Site License Agreements, the "Original Local Unit Program Documents"); and

Commissioner	Motion	Second	Yes/Aye	No-Nay	Abstain	Absent
David Barnett			✓			
Steve Hockaday	✓		✓			
Christopher Kolibas			✓			
Debra Marshall			✓			
Andrea Mojica			✓			
Ahmed Shehata		✓	✓			
Scott Huff, Vice Chairman			✓			
Sebastian D'Elia, Chairman			✓			



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WHEREAS, at present, the Company is the holder of certain interests in the Renewable Energy Projects and, among other things, delivers to the Local Units the solar energy generated by the Renewable Energy Projects pursuant to the Original Power Purchase Agreement; and

WHEREAS, the Authority desires to amend the Original Local Unit Program Documents to effect the acquisition by the Authority of the Company's interests in the Renewable Energy Projects as more fully set forth in that certain "Amendment No. 1 to Site License Agreement and Power Purchase Agreement" to be executed ("Amendment No. 1"), in substantially the form attached hereto as Exhibit A, by and among the Authority and each Local Unit; and

WHEREAS, each Local Unit has or will present to its governing body a resolution authorizing the execution of Amendment No. 1 and specifically their approval to have the Authority acquire the Company's interest in the Original Local Unit Program Documents (each a "Local Unit Resolution" and collectively the "Local Unit Resolutions"); and

WHEREAS, in the event any Local Unit determines not to authorize and execute Amendment No. 1, the Original Local Unit Program Documents (applicable to that Local Unit) shall remain in full force and effect, with respect to that Local Unit only, and the Authority's acquisition of the Company's rights shall only apply to those Local Units that have authorized and executed Amendment No. 1.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE MEMBERS OF THE UNION COUNTY IMPROVEMENT AUTHORITY AS FOLLOWS:

Section 1. The Executive Director or Authority Chairman (including their designees, each an "*Authorized Officer*") are each hereby severally authorized and directed to execute and deliver Amendment No. 1, in substantially the form attached hereto as Exhibit A, with such changes as any such Authorized Officer, in his or her sole discretion shall determine to be necessary, desirable or convenient to promote the best interests of the Authority, and any such Authorized Officer's execution and delivery of Amendment No. 1 shall be full and complete evidence of the authorization by the Authority of any such additions or changes to the Original Local Unit Program Documents. The Authorized Officer is hereby further authorized to take all such further actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement Amendment No. 1.

Section 2. The Secretary of the Authority and any designee are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on Amendment No. 1, if necessary, and such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is



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hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

Section 3. All actions taken to date in connection with Amendment No. 1 by the Authority and its advisors are hereby ratified, confirmed and approved.

Section 4. This resolution shall take effect immediately in accordance with all applicable law.

**AMENDMENT NO. 1 TO SITE LICENSE AGREEMENT AND
POWER PURCHASE AGREEMENT**

THIS AMENDMENT NO. 1 TO SITE LICENSE AGREEMENT AND POWER PURCHASE AGREEMENT (the “Amendment No. 1”), dated as of _____, 2021, by and among the Union County Improvement Authority, with offices at 10 Cherry Street, Elizabeth, New Jersey 07202 (“Authority”), and the _____, a local government unit in the County of Union, New Jersey (the “Local Unit”). Each of the Authority and the Local Unit may hereinafter be referred to as a “Party,” and collectively, the “Parties.”

WITNESSETH

WHEREAS, the Authority developed a program (the “Renewable Energy Program”) for the procurement, financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy projects, including solar panels, and any related electrical modifications or other work required in connection therewith for and on behalf of the Local Unit at the Local Unit’s facilities (the “Renewable Energy Project”);

WHEREAS, in connection therewith: (i) Tioga Solar Union County 1, LLC (including any successors and assigns thereof, the “Company”), the Authority, and the Local Unit entered into that Site License Agreement, dated May 1, 2011 (the “Original Site License Agreement”); and (ii) the Company, the Authority, the Local Unit, and the additional local government units referenced therein, entered into that certain Power Purchase Agreement, dated May 1, 2011 (the “Original Power Purchase Agreement”); and

WHEREAS, at present, the Company is the holder of certain interests in the Renewable Energy Project and, among other things, delivers to the Local Unit the solar energy generated by the Renewable Energy Project pursuant to the Original Power Purchase Agreement; and

WHEREAS, the Authority desires to acquire all of the Company’s interests in the Renewable Energy Project from the Company; and

WHEREAS, such acquisition by the Authority of the Company’s interests in the Renewable Energy Project requires certain amendments to the Original Site License Agreement and the Original Power Purchase Agreement, which the Parties intend to effectuate through the execution of this Amendment No. 1.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained in this Amendment No. 1, and for other good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1.1 Authority Assumption of Company Rights and Obligations. The Parties hereby agree and acknowledge that, automatically upon the Authority’s acquisition of the Company’s interests in the Renewable Energy Project, the Authority shall assume all rights and obligations of the

Company under the Original Power Purchase Agreement and the Original Site License Agreement, as the case may be, *vis a vis* the Local Unit and with respect to the Renewable Energy Project. The Local Unit hereby consents to the Authority's assumption of such rights and obligations thereunder, upon the Authority's acquisition of the Company's interests in the Renewable Energy Project.

1.2 No Other Terms Affected. Except as set forth herein, all remaining terms and conditions of the Original Site License Agreement and the Original Power Purchase Agreement shall remain in full force and effect.

1.3 Counterparts. This Amendment No. 1 may be executed in several counterparts, and when at least one counterpart has been fully executed by each Party hereto, this Amendment No. 1 shall become binding on all Parties hereto. All or any of the counterparts shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Amendment No. 1 to be executed and delivered by their duly authorized officers or agents, all as of the day and year first above written.

Union County Improvement Authority

By: _____

Name:

Title: