



Resolution No. 91-2021
Adoption Date Sept. 8, 2021

Sufficiency of Funds Bela Taylor
Form and Legality David Minchella

RESOLUTION AUTHORIZING USE OF A COMPETITIVE CONTRACTING PROCESS PURSUANT TO N.J.S.A. 40A:11-4.1 ET SEQ. TO SOLICIT PROPOSALS FOR OPERATION, MAINTENANCE, AND MANAGEMENT SERVICES FOR THE UNION COUNTY IMPROVEMENT AUTHORITY SOLAR FACILITIES

WHEREAS, the Union County Improvement authority (the “Authority”) has been duly created by ordinance of the Union County Board of Chosen Freeholders as 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-one (31) photovoltaic renewable energy projects, consisting of approximately 3.337 megawatts of installed capacity, installed in or about 2011 and 2012 across a total of thirty-one (31) Local Unit (as hereinafter defined) sites (the “Solar Projects”) throughout Union County (the “County”) for and on behalf of local governmental units within the County, including, without limitation, municipalities, boards of education, school districts, colleges, vocational schools, and jointure commissions (collectively, the “Local Units”); and

WHEREAS, in connection with the Renewable Energy Program, and selected by the Authority pursuant to a solicitation for proposals (the “Original RFP”) issued and awarded pursuant to the competitive contracting provisions of N.J.S.A. 40A:11-4.1 through 4.5 of the Local Public Contracts Law (“Competitive Contracting”), Tioga Solar Union County 1, LLC (including any successors and assigns thereof, the “Company”), is the current owner of the Solar Projects; and

WHEREAS, the Authority is evaluating steps to, among other things, acquire the Solar Projects from the Company, which is now in receivership under California law; and

Commissioner	Motion	Second	Yes/Aye	No-Nay	Abstain	Absent
David Barnett	x		x			
Steve Hockaday		x	x			
Terri Riley Hudak			x			
Debra Marshall			x			
Andrea Mojica			x			
Ahmed Shehata			x			
Ricardo Sosa					x	
Scott Huff, Vice Chairman			x			
Christopher Kolibas, Chairman			x			



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WHEREAS, upon acquisition of the Solar Projects, the Authority will require a qualified firm to provide for the operation, maintenance, and management of the Solar Projects, including, but not limited to, oversight, operations, billing, and maintenance of the Renewable Energy Projects (collectively, and as further set forth in the hereinafter defined RFP, the “Solar O&M Services”); and

WHEREAS, as the Solar O&M Services were one of the services performed by the Company as part of the contracts issued pursuant to the Original RFP (the “Original Contracts”) for the Renewable Energy Program, the Authority may utilize Competitive Contracting to solicit proposals from qualified firms to provide the Solar O&M Services to complete the term for such services under the Original Contracts; and

WHEREAS, the Authority now seeks to utilize Competitive Contracting in order to procure a qualified firm to provide the Solar O&M Services, for a term commencing on the date, if and when, the Authority acquires the Solar Projects, and ending on a date commensurate with the termination date for such services under the Original Contracts; and

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

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Authority hereby authorizes and directs the use of the Competitive Contracting process for the solicitation of proposals for the Solar O&M Services.

Section 3. Pursuant to and in accordance with N.J.S.A. 40A:11-4.3, the aforesaid Competitive Contracting process shall be administered by any of the Authority’s hereby severally authorized Project Manager, Chairman or any other person authorized in writing as their respective designees (each an “Authorized Officer” and collectively, the “Authorized Officers”), in consultation with the Authority’s general counsel, special energy counsel, and renewable energy consultant.

Section 4. Pursuant to and in accordance with N.J.S.A. 40A:11-4.4(a), the Authority shall seek proposals for the Solar O&M Services through the publication and distribution of a Request For Proposals (the “RFP”), substantially in the form attached hereto as Exhibit A, with such changes, additions, or deletions 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



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and its Renewable Energy Program, including, without limitation, the establishing of dates for the issuance of the RFP and deadlines for the submission of proposals in response thereto. Any such issuance of the RFP at the direction of one or more Authorized Officers shall be full and complete evidence of the authorization by the Authority of any such changes, additions, or deletions to the RFP actually issued, with no further official action required. The Authorized Officers are hereby further authorized to take all such further actions in connection therewith 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 RFP; provided however, that any award of the Solar O&M Services pursuant to the RFP must be authorized or ratified by resolution of the Authority.

Section 5. As part of its approval of the use of the Competitive Contracting process, the Authority requires that the Authorized Officers establish a team to evaluate the RFP responses, which team shall include some or all of the Authorized Officers, the Authority's special energy counsel, the Authority's renewable energy consultant, and such other members as the Authorized Officers shall determine appropriate, in their sole and absolute discretion (collectively, the "Review Team").

Section 6. The Review Team shall evaluate the RFP responses through all appropriate means, including, without limitation, interviews with the respondents to the RFP if determined necessary, desirable, or convenient, and make a formal recommendation to the Authority respecting a contract award. The Review Team is also authorized to draft and issue a report in accordance with the provisions of Competitive Contracting.

Section 7. This resolution shall take effect immediately, in accordance with all applicable law.