

RESOLUTION 2021 – 41

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY COMMITTING TO THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION TO PROVIDE FUNDS NECESSARY TO MONITOR AND MAINTAIN THE MOUNT ARLINGTON LANDFILL IN ACCORDANCE WITH THE APPROVED CLOSURE AND POST-CLOSURE PLAN, IN EACH BOROUGH MUNICIPAL BUDGET, UNTIL THE END OF THE POST-CLOSURE PERIOD

WHEREAS, on October 6, 2015, the Borough Council of the Borough of Mount Arlington, in the County of Morris, New Jersey (the "Borough") adopted Ordinance No. 11-15, approving and adopting the Mount Arlington Landfill Redevelopment Plan (as the same may be amended and supplemented from time to time, the "Redevelopment Plan") in accordance with the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, as amended and supplemented (the "Redevelopment Law"); and

WHEREAS, the Redevelopment Plan relates to certain property within the Borough, specifically Block 8, Lot 3 on the Tax Map of the Borough (the "Redevelopment Area" or the "Landfill"); and

WHEREAS, on April 12, 2016, the Borough Council, acting in its capacity as "redevelopment entity" for the Borough (the "Redevelopment Entity"), adopted Resolution 2016-76, designating HESP Solar, LLC as redeveloper of the Redevelopment Area (the "Redeveloper" or "HESP"); and

WHEREAS, on February 5, 2019, the Borough Council adopted Resolution 2019-49, approving the form and authorizing the execution of a redevelopment agreement by and between the Borough and the Redeveloper; and

WHEREAS, the Borough and Redeveloper entered into a Redevelopment Agreement dated as of May 17, 2019 (the "Redevelopment Agreement"), which Redevelopment Agreement designates Redeveloper as the "redeveloper" of the hereinafter defined Redevelopment Project in accordance with the Redevelopment Law, and which specifies the respective rights and responsibilities of the parties with respect to the Redevelopment Project; and

WHEREAS, pursuant to the terms of the Redevelopment Agreement, the Redeveloper shall undertake the following actions in accordance with the terms of the Redevelopment

Agreement and the Redevelopment Plan: (i) design, develop, finance, construct, operate and maintain a grid-connected photovoltaic solar power system in the Redevelopment Area with an output of approximately 1.6 megawatts (MW) (direct current) of power, as approved by PJM, including but not limited to all solar energy panels, mounting systems, carports, tracking devices, inverters, switches, meters, conduits, wires, controls, integrators, security systems and other related equipment and components installed in the Redevelopment Area, electric lines and conduits required to connect such equipment to the delivery point, protective and associated equipment, improvements, and other tangible and intangible assets, contracts, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of same; and (ii) construct all necessary on- and off-site infrastructure improvements (as more specifically described in the Redevelopment Agreement as the "Project", the "Redevelopment Project"); and

WHEREAS, in connection with the Redevelopment Project, the Borough and HESP also entered into a companion ground lease agreement ("Ground Lease Agreement") and a solar power purchase agreement ("Power Purchase Agreement" or "PPA"), respectively (the same, together with the Redevelopment Agreement, sometimes the "Agreements"); and

WHEREAS, subsequent to entry into the Agreements, HESP engaged with the New Jersey Department of Environmental Protection (THE "NJDEP"), in order to obtain approval from NJDEP's Division of Solid and Hazardous Waste respecting the placement of the Redevelopment Project on the Landfill. The concept was previously approved by the NJDEP, but HESP was required to file for a new Modified Landfill Closure/Post-Closure Plan in connection therewith; and

WHEREAS, in connection with the forgoing, the NJDEP is requiring from the Borough, a resolution indicating that the Borough will provide the funds necessary to monitor and maintain the Landfill in accordance with the NJDEP-approved Closure and Post-Closure Plan, in each annual municipal budget until the end of the post-closure period set forth in said Plan, as more fully set forth in the NJDEP's Technical Deficiency Notice, at Item 7; and

WHEREAS, the Borough has already been including the annual monitoring costs for the Landfill in its annual municipal budgets, and any maintenance has been performed by the Borough Department of Public Works as a component of its normal duties; and

WHEREAS, given the foregoing, the Borough desires to adopt this resolution, to memorialize the Borough's commitment to provide the funds necessary to monitor and maintain the Landfill in accordance with the approved Closure and Post-Closure Plan, in each municipal budget, until the end of the post-closure period set forth in said Plan.

BE IT RESOLVED, BY THE BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, NEW JERSEY, AS FOLLOWS:

Section 1. The above Recitals are incorporated herein by reference as if set forth in full herein.

Section 2. In accordance with the request and requirement of the NJDEP and in furtherance of the Redevelopment Project, the Borough hereby resolves to provide the funds necessary to monitor and maintain the Landfill in accordance with the NJDEP-approved Closure and Post-Closure Plan, in each municipal budget, until the end of the post-closure period for the Landfill.

Section 3. This resolution shall take effect immediately.

I HEREBY CERTIFY this to be a true and correct Resolution of the Mayor and Council of the Borough of Mount Arlington and adopted on March 2, 2021.


Matthew N. Bansch, Borough Clerk