



# UNION COUNTY UTILITIES AUTHORITY

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RESOLUTION NO.: 23-2016

DATE: March 16, 2016

## SUPPLEMENTAL RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY REAPPOINTING CERTAIN PROFESSIONALS AND CONSULTANTS TO THE AUTHORITY

APPROVED AS TO FORM:  
Joseph C. Bodek  
Clerk of the Authority

APPROVED AS TO SUFFICIENCY OF FUNDS  
 YES  NO  NONE REQUIRED  
UNION COUNTY UTILITIES AUTHORITY

By: Joseph C. Bodek

By: [Signature]

	PRESENT	ABSENT	AYE	NAY	ABSTAIN	MOTION	SECOND
<i>Badri</i>	✓		✓			✓	
<i>Criscione</i>	✓		✓				
<i>Jackus</i>	✓		✓				
<i>Kahn</i>	✓		✓				✓
<i>Kennedy</i>	✓		✓				
<i>People</i>		✓					
<i>Scutari</i>	✓		✓				
<i>Erdos, Vice Chair</i>	✓		✓				
<i>Eastman, Chair</i>	✓		✓				
<i>Lombardo, Alternate No. 1</i>	✓		✓				
<i>McManus, Alternate No. 2</i>	✓						

**SUPPLEMENTAL RESOLUTION OF THE UNION COUNTY UTILITIES  
AUTHORITY REAPPOINTING CERTAIN PROFESSIONALS AND  
CONSULTANTS TO THE AUTHORITY**

**WHEREAS**, pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. (the "SWMA"), each county within the State of New Jersey is designated a solid waste management district with responsibility for the development of a solid waste management plan setting forth the solid waste disposal strategy to be applied in the district; and

**WHEREAS**, the Board of Chosen Freeholders of the County of Union (the "County") has adopted the Union County District Solid Waste Management Plan, as amended from time to time (the "County Plan"); and

**WHEREAS**, the County has designated the Union County Utilities Authority (the "Authority" or "UCUA") as the agency responsible for implementing the County Plan; and

**WHEREAS**, in order to carry out the stated purposes and goals for which the Authority was created, as well as the powers granted by the Municipal and County Utilities Authorities Law, N.J.S.A. 40:14B-1 et seq., and pursuant to N.J.S.A. 40A:11-1 et seq., the Authority has determined that it will require the provision of certain general and specialized consulting and professional services relating to and in furtherance of its activities; and

**WHEREAS**, the Authority has determined to undertake a fair and open process in accordance with the New Jersey Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, et seq. through the issuance of a Request for Qualifications ("RFQ") for contract awards for such services required on and after the Authority's 2015 reorganization through and until its reorganization in 2016; and

**WHEREAS**, the Authority has established and implemented a procedure for such a process which required, at a minimum (1) public advertisement of the RFQ, in the official Authority newspaper for ten (10) calendar days, (2) establishment of appropriate evaluation criteria, which was documented in writing and disclosed prior to the solicitation of qualifications, and (3) public opening; followed by announcement of any contract award; and

**WHEREAS**, moreover the Authority established an evaluation committee to evaluate any and all responses to the RFQ, consisting of the following individuals: Daniel P. Sullivan, Executive Director and Lisa da Silva, Deputy Clerk/Office Manager; and

**WHEREAS**, the Authority advertised an RFQ for various professional services on January 7, 2016; and

**WHEREAS**, on January 28, 2016, the Authority received proposals from various firms in response to the RFQ, which have all been reviewed by the evaluation committee and which are available for public inspection, and as result of which the Authority adopted a Resolutions at its February 10, 2016 Reorganization Meeting qualifying all of those firms meeting the evaluation criteria established in accordance with the Fair and Open Process and the Authority's By-laws; and

**WHEREAS**, on February 10, 2016, the Authority approved Resolution No.: 11-2016 appointing and reappointing certain consultants and professionals from its qualified list to provide general and specialized consulting and professional services to the Authority during the period beginning February 10, 2016 through the Authority's next reorganization meeting in February 2017; and

**WHEREAS**, the Authority wishes to adopt this supplemental Resolution appointing and reappointing firms previously qualified to provide auditing services to the Authority and awarding contracts in accordance with the RFQ process.

**NOW, THEREFORE, BE IT RESOLVED** that the Union County Utilities Authority:

1. Awards a contract to Suplee Clooney and Company, to provide auditing services as needed by the Authority during the time period covering February 10, 2016 through February 8, 2017, in a total annual amount not to exceed \$31,000.00.
2. Authorizes the Authority's Chairman and the Executive Director to execute a contracts with Suplee Clooney and Company in a form substantially similar to the respective forms of contract attached hereto.
3. This Resolution is adopted and the aforementioned Contract is hereby awarded pursuant to a Fair and Open Process in accordance with the New Jersey Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, et seq.
5. This Resolution shall take effect immediately.

**CONTRACT FOR PROFESSIONAL AUDITING SERVICES**

**BY AND BETWEEN**

**UNION COUNTY UTILITIES AUTHORITY**

**AND**

**SUPLEE CLOONEY & COMPANY**

**THIS CONTRACT**, dated as of March \_\_\_\_\_, 2016, by and between the **UNION COUNTY UTILITIES AUTHORITY** with its principal offices located at 1499 Routes 1&9 North, Rahway, New Jersey 07065 (hereinafter referred to as "Authority") and **SUPLEE CLOONEY & COMPANY** with offices located at 308 East Broad Street, Westfield, New Jersey 07090-2122 (hereinafter referred to as "Auditors" or "Contractor"):

**WITNESSETH:**

**WHEREAS**, the Authority wishes to engage the Auditors as auditors for the purposes hereinafter described in Paragraph 1, Scope of Services; and

**WHEREAS**, the Auditors have agreed to provide professional auditing services related to the Authority's fiscal operations as set forth in the aforesaid Scope of Services; and

**WHEREAS**, the Auditors are qualified and experienced in these areas of auditing.

**NOW THEREFORE**, the parties hereto, each intending to be legally bound herein, do mutually agree as follows:

**1. SCOPE OF SERVICES:**

a) Auditors hereby agree to perform, (unless otherwise directed by the Authority) financial services in connection with the Authority's programs and activities. Such services shall include but not be limited to auditing services and other financial services as required by the Authority.

b) The budget cap applicable to these services shall not exceed \$31,000.00 during the term of this professional services agreement.

c) When the value of services rendered under this contract has reached 80% of the above-referenced budget cap the Attorneys shall notify the Authority's Executive Director and Comptroller of same in writing. The failure to comply with the provisions of this paragraph shall be deemed a material breach of the contract by the contractor and shall subject the contractor, at the Authority's option, to termination and dishonor of any and all bills or vouchers exceeding 80% of the budget cap (or any amended budget cap). If such notice is properly and timely made, contractor shall be entitled to full (100%) compensation up to the approved budget cap (or any amended budget cap).

d) The Auditors, during any month within which they provide legal services to the Authority, shall provide a Status Report to the Authority on or before the Wednesday preceding the next meeting of the Authority's Board of Commissioners. The Status Report shall be a comprehensive, type-written report depicting the status of all projects, initiatives and/or other matters, including activities and accomplishments, being handled by the Auditors as of the first day of the reporting month. The Status Report shall not be a recitation of the Auditor's Billing Statement. The Status Report shall be provided in triplicate to the Authority's Executive Director, and shall be clearly marked "Advisory, Consultative and/or Deliberative Material."

2. **PERSONNEL:**

a) Auditors represent that they have or will secure at their own expense, all personnel required in performing the services under this Contract.

b) Personnel shall not be employees of or have any other contractual relationship with the Authority.

c) All of the services required hereunder will be performed by the Auditors under the direct supervision of Robert Butvilla and all personnel engaged in the work shall be fully qualified.

d) None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the Authority.

3. **TIME OF PERFORMANCE:** It is understood and agreed by and between the parties hereto, that this Contract shall be for a period commencing on February 10, 2016 and continuing through the Authority's next reorganization meeting in February 2016, during which time the Auditors agree to perform their services in such sequence as to assure their expeditious completion in light of the purpose of this Contract.

4. **COMPENSATION:**

a) Except with respect to matters that are performed on a subcontract basis, as provided herein, the Authority agrees to pay Auditors for auditing services provided on the basis of hourly time charges, except to the extent provided in paragraph (b) below. Such services shall be billed at the hourly rates of \$150 for partner, \$125 for a manager and \$100 for staff.

b) To the extent that any services are performed by any personnel other than as set forth above, the hourly rates for such Auditors shall be submitted to the Authority for review and written approval prior to payment for such services.

c) With respect to any financing or proposed financing to be undertaken by the Authority, the Authority may request that the Auditors perform such auditing services on the basis of a fixed fee. Such fixed fee shall be mutually acceptable to the Authority and the Auditors and shall be agreed to prior to the provision of auditing services with respect to such proposed financing.

d) The Authority agrees to reimburse Auditors for out-of-pocket expenses incurred in connection with performance of the auditing services to be provided under this Contract. Such out-of-pocket expenses shall include, but not be limited to, the cost of duplication, word processing, telecopy, Federal Express or similar overnight mail services, messenger service, meals, if appropriate, long-distance calls, travel expenses and payments to subcontractors.

e) The Auditors covenant and agree to have available, upon request, at the Authority, their books and records for inspection by appropriate officials covering the charges, fees and costs under this Contract.

f) Vouchers and Itemized Billing Statements shall be submitted to the Authority's Comptroller, along with a copy for the Executive Director on or before 4:00 PM on the first Wednesday of the month or 14 days prior to the Authority's Board of Commissioners Meeting (whichever is later).. Failure to submit such documents in a timely manner may result in a delay in processing applicable payments.

5. **SERVICE AND DOCUMENT CONFORMANCE/APPROVAL:** All services rendered and documents prepared by the Auditors shall strictly conform to all laws, statutes and ordinances and the applicable rules and regulations, methods and procedures of all governmental boards, bureaus, offices and commissions and other agencies, in effect when the services are rendered and the documents are prepared.

All of the services required of the Auditors by the Authority shall be performed to the satisfaction of, and with the approval of, the Authority, which approval shall not be unreasonably withheld.

6. **DOCUMENT OWNERSHIP:** All plans, reports, notes, briefs, opinions, calculations, drafts, contracts, memoranda and all other documents pertaining to the services required hereunder and prepared or obtained by the Auditors in the performance of this Contract shall be the absolute property of the Authority; subject however, to the Authority making payment for the provision of such services.

7. **TERMINATION:** The Authority reserves the right to terminate this Contract, at its sole discretion, by giving at least ten (10) days prior written notice to the Auditors of such termination and specifying the effective date therefore. Upon any termination of the Contract, the Auditors shall be paid in full for all services rendered to the Authority as of the date of termination.

a) Upon payment for all services rendered to the Authority as of the date of termination, all finished or unfinished documents, data, studies, agreements and/or reports prepared or obtained by the Auditors under this Contract, shall be promptly delivered to the Authority in accordance with Paragraph 6.

b) Payment shall be made in accordance with the provisions of Paragraph 4.

8. **ASSIGNMENT:** This Contract shall not be assigned or assignable, either by action of the Auditors or by law.

9. **ERRORS AND/OR OMISSIONS:** The Authority reserves the right to deny payment of the part of any fee which is based on an increase in costs in the preparation of documents or services resulting from an error or omission of the Auditors.

10. **INDEMNIFICATION:** The Auditors shall indemnify, defend and hold harmless the Authority, its members, officers, directors and employees from and against any and all losses, claims, actions, damages, liability and expenses, including, but not limited to, those in connection with loss of life, bodily and personal injury or damage to property, to the extent they are occasioned, in whole or in part, by the Auditors' negligent act or omission, or the negligent act or omission of Auditors' agents, sub-consultants, employees or servants, arising from the discharge of the Auditors' responsibilities pursuant to this Contract.

11. **LITIGATION:** In the event the Authority becomes involved in any litigation with third parties concerning or relating in any way to the Auditors' services, whether such litigation occurs during or after the term of the Contract, the Auditors agree, at no additional fees other than the hourly rates called for under this Contract, to make its members and employees available to the Authority, to consult, assist and cooperate in any such litigation to the extent such consultation, assistance and cooperation may be required by the Authority.

12. **EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION:** See Exhibit A, which is attached hereto and made a part hereof.

13. **FIRM HISTORY:** The Auditors represent that no corporation, partnership, individual or association, officer, director, employee, manager, parent, subsidiary, affiliate or principal shareholder of said Auditors, has been adjudicated in violation of any state or federal anti-trust or other similar statute within the preceding five years, or previously adjudged in contempt of any court order enforcing any such law, or has an operating history which shows a recurring pattern of flagrant and consistent violation of prohibited or illegal acts.

14. **AUTHORITY REPRESENTATIONS AND WARRANTIES:** The Authority represents and warrants that this Contract has been duly authorized by its board membership, and when executed by its Chairman or Vice Chairman shall be valid and binding upon the Authority and shall be in full force and effect.

15. **GOVERNING LAW:** This Contract shall be governed by the laws of the State of New Jersey.

16. **AWARD:** This Contract has been awarded in accordance with a Fair and Open Process pursuant to the New Jersey Local Unit Pay-to-Play Law (N.J.S.A. 19:44A-20.4 et seq.).

17. **SEVERABILITY:** A waiver or breach of any term condition or covenant by either party shall not constitute a waiver or breach of any other term condition or covenant. If any court of competent jurisdiction declares a provision of the Contract to be invalid, illegal or otherwise unenforceable, the remaining provisions of the contract shall remain in full force and effect.

18. **INSURANCE:** The Auditors shall maintain the following insurance coverage during the term of this Contract, and provide a Certificate of Insurance to the Authority evidencing same: Comprehensive Liability, Property/Casualty (\$2 million aggregate/\$1million per occurrence) (unless similar level of Umbrella coverage are present); Workers Compensation (statutory limits); Professional Malpractice (\$2 million aggregate/\$1 million per occurrence) naming the Authority as an additional insured.

19. **AMERICANS WITH DISABILITIES ACT COMPLIANCE:** See Exhibit B, which is attached hereto and made a part hereof.



IN WITNESS WHEREOF, the Authority has caused these presents to be duly executed and the Auditors have caused these presents to be duly executed, as of the day and year first above written.

**ATTEST:**

**UNION COUNTY UTILITIES AUTHORITY**

By: \_\_\_\_\_

By: \_\_\_\_\_  
ROY EASTMAN  
Chairman

(SEAL)

By: \_\_\_\_\_  
DANIEL P. SULLIVAN  
Executive Director

**SUPLEE CLOONEY & COMPANY**

By: \_\_\_\_\_  
ROBERT BUTVILLA  
Partner

## EXHIBIT A

### MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

### GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at: [www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance))

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C.17:27.

## EXHIBIT B

### **AMERICANS WITH DISABILITIES ACT OF 1990 EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITY**

The Contractor and the Authority do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S12101 *et seq.*), which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulation promulgated pursuant thereunto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the Authority pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the Authority in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the Authority, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and, all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the Authority's grievance procedure, the contractor agrees to abide by any decision of the Authority, which is rendered pursuant to, said grievance procedure. If any action or administrative proceeding results in an award of damages against the Authority or if the Authority incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure the contractor shall satisfy and discharge the same at its own expense.

The Authority shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the Authority or any of its agents, servants, and employees, the Authority shall expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the Authority or its representatives.

It is expressly agreed and understood that any approval by the Authority of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the Authority pursuant to this paragraph.

It is further agreed and understood that the Authority assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the Authority from taking any other actions available to it under any other provisions of this Agreement or otherwise at law.