



UNION COUNTY UTILITIES AUTHORITY

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RESOLUTION NO.: 27-2017

DATE: March 15, 2017

RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH MERCK SHARP & DOHME CORP., PROVIDING FOR THE ALTERNATE DISPOSAL OF ID TYPE 13C & 27 SOLID WASTE

APPROVED AS TO FORM:

Joseph C. Bodek, RMC

Clerk of the Authority

APPROVED AS TO SUFFICIENCY OF FUNDS

YES NO NONE REQUIRED

UNION COUNTY UTILITIES AUTHORITY

By:

By:

| | PRESENT | ABSENT | AYE | NAY | ABSTAIN | MOTION | SECOND |
|----------------------------------|---------|--------|-----|-----|---------|--------|--------|
| <i>Badri, Treasurer</i> | ✓ | | ✓ | | | | |
| <i>Criscione</i> | ✓ | | ✓ | | | | |
| <i>Eastman</i> | ✓ | | ✓ | | | | |
| <i>Jackus</i> | ✓ | | ✓ | | | | |
| <i>Kahn</i> | | ✓ | | | | | |
| <i>Kennedy, Secretary</i> | | ✓ | | | | | |
| <i>Pellettiere</i> | ✓ | | ✓ | | | | |
| <i>Scutari, Vice Chairwoman</i> | ✓ | | ✓ | | | ✓ | |
| <i>People, Chairman</i> | ✓ | | ✓ | | | | |
| <i>Lombardo, Alternate No. 1</i> | ✓ | | ✓ | | | | |
| <i>McManus, Alternate No. 2</i> | ✓ | | ✓ | | | | ✓ |

**RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY
APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT
WITH MERCK SHARP & DOHME CORP. PROVIDING FOR THE ALTERNATE
DISPOSAL OF ID TYPE 13C AND TYPE 27 SOLID WASTE.**

WHEREAS, the Union County Utilities Authority (“UCUA”) is a public body corporate and politic of the State of New Jersey, created by the Union County Board of Chosen Freeholders (“Freeholders”) in accordance with the provisions of the Municipal and County Utilities Authorities Law, N.J.S.A. 40:14B-1 et seq., by an Ordinance adopted on June 5, 1986, as amended on December 11, 1986, and exercises essential governmental functions for the public health, benefit and welfare of the citizens of Union County (“County”); and

WHEREAS, the Union County District Solid Waste Management Plan (“County Plan”) was developed in accordance with the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. (“SWMA”), and initially adopted by the Freeholders on June 7, 1979 and certified by the New Jersey Department of Environmental Protection (“NJDEP”) on August 13, 1980, and has since been amended from time to time; and

WHEREAS, on December 11, 1986, the Freeholders designated UCUA as the agency responsible for the implementation of the County Plan, pursuant to and in accordance with the SWMA, and UCUA has been charged with planning, acquiring, constructing, maintaining and operating facilities for the processing and disposal of County solid waste and/or the recovery of recyclable materials (“County System”); and

WHEREAS, UCUA has previously developed, implemented and financed (through the issuance of long-term revenue bonds) a solid waste management system that includes the construction and operation of the Union County Resource Recovery Facility (“UCRRF”) to provide for the processing and disposal of all processible solid waste generated within the geographic boundaries of the County; and

WHEREAS, in response to Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, et al., 112 F.3d 652 (3d Cir. 1997), cert. den. 522 U.S. 966 (1997) (“Atlantic Coast”), the County Plan was amended on May 21, 1998 to, among other things, define the County’s new disposal strategy, based upon voluntary contracts, as to Solid Waste Types 10 and 25 for disposal at the UCRRF, and including the lease by the UCUA to Ogden Martin Systems of Union, Inc. (now known as Covanta Union, Inc.) of the UCRRF and the real property and improvements upon which the UCRRF is constructed; and

WHEREAS, the County also adopted a series of amendments to the County Plan, as supplemented by an administrative action adopted by the UCUA in response to Atlantic Coast, resulting in the issuance of two certifications by the NJDEP, dated July 20, 1998 and June 1, 1999, which were subsequently clarified by the NJDEP on June 29, 1999, re-establishing mandatory flow control over all Solid Waste Types 13, 13C, 23 and 27 (“Non-Processible Waste”) generated within the County and further directing all Non-Processible Waste to the County’s designated disposal facility at that time, the Hackensack Meadowlands Development Commission, following and pursuant to a non-discriminatory procurement consistent with Atlantic Coast; and

WHEREAS, the County subsequently adopted amendments to the County Plan to re-affirm the County’s exercise of regulatory flow control over all Non-Processible Waste generated within the County

and designate, most recently, the Waste Management of New Jersey Inc. (“Waste Management”) transfer facilities at Julia Street, Elizabeth, New Jersey as the disposal facility to which all such Non-Processible Waste shall be directed and the amendments to the County Plan have been certified by NJDEP; and

WHEREAS, Merck Sharp & Dohme Corp. (“Merck”), a pharmaceutical corporation that maintains corporate offices at 2000 Galloping Hill Road, Kenilworth, New Jersey, continues to be engaged in large scale projects to demolish structures on its industrial properties in Kenilworth, New Jersey (the “Kenilworth Project”) and Rahway, New Jersey (the “Rahway Project”) (collectively the “Projects”) that continue to generate significant quantities of Solid Waste Type 13C (construction and demolition debris) and Type 27 (non-hazardous, contaminated soil) that will be required to be delivered to the County System for disposal; and

WHEREAS, based upon discussions by and among representatives of the UCUA, Merck, and Waste Management, it is apparent that Waste Management may not be able to accept all of the construction and demolition debris and soil that will be generated by the Kenilworth Project and Rahway Project in a manner that will provide for the timely removal of solid waste materials from the respective project sites; and

WHEREAS, Merck has requested authorization from the UCUA to dispose of construction and demolition debris and soil from the Projects at alternate disposal sites so as not to unduly delay the completion of the Projects; and

WHEREAS, UCUA and Merck representatives have negotiated a proposed agreement between the parties (“Agreement”), allowing Merck to dispose of the construction and demolition debris and soil from the Projects at alternate permitted facilities, subject to Merck paying to the UCUA its current debt service and administrative fee component (collectively the “rate component”) for every ton of solid waste from the Projects delivered for disposal to the alternate disposal facilities; and

WHEREAS, UCUA has determined that approval of the Agreement with Merck is in UCUA’s best interests and those of the citizens of the County, and is necessary for its efficient operations, and will ensure the continued implementation of regulatory flow control over all Non-Processible Waste which include, but are not limited to, Types 13C and 27.

NOW, THEREFORE, BE IT RESOLVED by the Union County Utilities Authority as follows:

1. The aforesaid recitals are incorporated herein as though fully set forth at length.
2. The Agreement is approved in substantially the form attached hereto and the UCUA’s Chairman and Executive Director are hereby authorized and directed to execute the Agreement.
3. A copy of this Resolution and Agreement shall be available, upon execution by the parties, for public inspection at the offices of the UCUA at 1499 US Highway 1 North, Rahway, New Jersey.
4. This Resolution shall take effect immediately.