



UNION COUNTY UTILITIES AUTHORITY

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RESOLUTION NO.: 78-2015

DATED: December 16, 2015

RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY AUTHORIZING ANNUAL PAYMENT TO THE COUNTY OF UNION IN ACCORDANCE WITH 2012 INTERLOCAL SERVICES AGREEMENT BETWEEN THE AUTHORITY AND THE COUNTY OF UNION

APPROVED AS TO FORM:

Joseph C. Bodek
Clerk of the Authority

APPROVED AS TO SUFFICIENCY OF FUNDS
UNION COUNTY UTILITIES AUTHORITY

By: Joseph C. Bodek

By: Mark A. Sussan

	PRESENT	ABSENT	AYE	NAY	ABSTAIN	MOTION	SECOND
<i>Badri</i>	✓		✓				✓
<i>Criscione</i>		✓					
<i>Jackus</i>	✓		✓				
<i>Kahn</i>	✓		✓				
<i>Kennedy (Secretary)</i>	✓		✓				
<i>People (Treasurer)</i>	✓		✓				
<i>Scutari</i>		✓					
<i>ErDOS (Vice-chair)</i>	✓		✓			✓	
<i>Eastman (Chairman)</i>	✓		✓				
<i>Bonanno (Alternate)</i>	✓		✓				
<i>Lombardo, (Alternate)</i>	✓		✓				

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WHEREAS, pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. (the "Act"), 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, in accordance with the Act, the County of Union ("County") has previously developed the Union County District Solid Waste Management Plan (the "County Plan") for the purpose of, among other things, managing the disposal and/or recycling of solid waste generated within the County and has designated the Union County Utilities Authority (the "Authority") as implementing agency for the County Plan; and

WHEREAS, the Authority owns the Union County Resource Recovery Facility, a 1540 tons per day waste-to-energy facility, located in the City of Rahway, New Jersey (the "UCRRF") which has been leased to and is operated by Covanta Union, Inc. ("Covanta"), formerly known as Ogden Martin Systems of Union, Inc., as part of a restructuring undertaken by the Authority in 1998 following the decision in Atlantic Coast Demolition and 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), pursuant to the terms of a Facility Lease Agreement dated as of July 15, 1998 (the "Facility Lease"), an Amended and Restated Waste Disposal Agreement dated as of February 15, 1998, as amended and restated as of June 15, 1998 and a First Amendment thereto dated as of July 18, 2003 (together referred to as the "Waste Disposal Agreement"); and

WHEREAS, the Authority, the County and Covanta engaged in negotiations with Covanta to amend the Facility Lease and Waste Disposal Agreement to extend their respective terms in exchange for modifications of the provisions, among other things, for annual lease payments and sharing of revenues generated at the UCRRF, and upon the successfully conclusion of the negotiations filed the amended agreements with, and received approval from, NJDEP and the Department of Community Affairs, Division of Local Government Services ("LGS"), pursuant to and in accordance with the McEnroe Act, N.J.S.A. 13:1E-136 et seq., for approval of the amendments; and

WHEREAS, the County has historically provided cooperation and assistance to municipalities within the County and to other public entities such as the Authority in order to maximize the economies and efficiencies of scale that may be achieved through such cooperation between and among public entities; and

WHEREAS, the County Health Department has been certified by order of the NJDEP as the County's lead agency under the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq. ("CEHA"); and

WHEREAS, the County Health Department, as a Certified Health Agency, is authorized pursuant to CEHA, and N.J.S.A. 13:1E-9 to provide environmental health services, including, but not limited to, enforcement of the Act, N.J.S.A. 13:1E-1 et seq., pursuant to the Solid Waste Control Work Program component of the approved County Environmental Health Work Program; and

WHEREAS, the County has delegated to the Authority all such powers as are necessary to conduct certain inspections, investigative and enforcement responsibilities in order to enlist the Authority's considerable resources and expertise as the implementing agency for the County Plan, in fully and properly enforcing compliance therewith, and in implementing the applicable provisions of the Solid Waste Control Work Program component as set forth within the approved overall CEHA Work Program; and

WHEREAS, notwithstanding the County's delegation of enforcement powers to the Authority, the County Police have continued to assist the Authority in carrying out inspections, investigations and enforcement of the Solid Waste Control Work Program component as set forth within the approved overall CEHA Work Program; and

WHEREAS, the Authority and the County are parties to a Limited Deficiency Agreement, as amended, pursuant to which the County has agreed to make certain payments to the extent that the Authority is unable to pay certain amounts due under the Waste Disposal Agreement, amended and restated, between the Authority and Covanta; and

WHEREAS, in its October 13, 2011 Order, NJDEP and LGS recognized and approved the Authority's plan to transmit \$2 million annually to the County for use in providing relief to the citizens of the County; and

WHEREAS, having enjoyed a longstanding contractual relationship wherein they have pooled their resources to jointly provide the aforementioned services, on March 21, 2012 the County and the Authority entered into an interlocal services agreement (hereinafter "Agreement") memorializing the services being provided by the County in exchange for annual funding to be provided by the Authority to the County consistent with the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq. and the terms of the NJDEP Order of October 13, 2011; and

WHEREAS, pursuant to the terms of the Agreement at Section 1.02 the Authority is required to transmit to the County on or before July 1st of each year during the 10-year term of the Agreement the annual sum of \$2 million for purposes of budget/tax relief consistent with the provisions of the Local Authorities Fiscal Control Law and the terms of the NJDEP Order of October 13, 2011; and

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 Authority's Comptroller is authorized and directed to effectuate payment in the amount of \$2,000,000.00 to the County of Union by no later than December 31, 2015 in accordance with the terms of the Agreement referred to herein above.
3. This Resolution shall take effect immediately.