



UNION COUNTY UTILITIES AUTHORITY

1499 US Highway One, Rahway, New Jersey 07065

(732) 382-9400

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RESOLUTION NO.: 25-2018

DATE: March 21, 2018

RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY APPROVING AND RATIFYING THE EXECUTION OF A DISPOSAL AGREEMENT WITH COVANTA SUSTAINABLE SOLUTIONS, LLC AND GRAND CENTRAL SANITARY LANDFILL, INC.

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: *Joseph C. Bodek*

By: *Thomas M. Scutari*

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

**RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY
APPROVING AND RATIFYING THE EXECUTION OF A DISPOSAL
AGREEMENT WITH COVANTA SUSTAINABLE SOLUTIONS, LLC AND
GRAND CENTRAL SANITARY LANDFILL, INC.**

WHEREAS, the Union County Utilities Authority (“UCUA”) is a public body corporate and politic of the State of New Jersey, created by the Freeholders in accordance with the provisions of the Municipal and County Utilities Authorities Law, N.J.S.A. 40:14B-1 et seq. (the “Act”), by an Ordinance adopted on June 5, 1986, as amended on December 11, 1986 and which 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 Union County Board of Chosen Freeholders (“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 as UCUA is empowered, pursuant to the Act, to plan, acquire, construct, maintain and operate facilities for the processing, disposal and/or recycling of solid waste generated in the County; and

WHEREAS, UCUA, in its capacity as implementing agency for the County Plan, has previously developed, implemented and financed a solid waste management system that includes the construction of the Union County Resource Recovery Facility (“UCRRF”) to provide for the processing and disposal of all municipal solid waste generated within the geographic boundaries of the County; and

WHEREAS, UCUA is the owner of the UCRRF, a 1,540 tons per day waste-to-energy facility, located in the City of Rahway, New Jersey, which has been leased to and is operated by Covanta Union, LLC. (“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; and

WHEREAS, on prior occasion pursuant to duly adopted resolution, the Authority and Covanta agreed to amend the Facility Lease Agreement, and Amended and Restated 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

WHEREAS, Covanta owns and operates through subsidiaries a waste-to-energy plant located in Oxford, New Jersey (“Covanta Warren”) and the UCRRF (“Covanta Union”); and

WHEREAS, Grand Central Sanitary Landfill, Inc. operates a landfill located in Pen Argyl, PA (“GCS”), and the Covanta Warren and Covanta Union facilities generate non-hazardous ash residue that requires disposal in a secure, sanitary landfill.

WHEREAS, UCUA and Alliance Landfill, Inc. (formerly Empire Sanitary Landfill, Inc. and now known and operating as GCS), per Resolution 70-2013, dated November 13, 2013, executed an “Amended and Restated Agreement for the Acquisition of an Undivided Interest in Real Property Consisting of the Acquisition of Certain Easement and Landfill License Rights Relating Thereto,” dated December 31, 1992, which has been amended and restated (collectively, the “Easement”) and an Amendment to Landfill Agreement, dated June 15, 1998, between the UCUA and GCS that obligates GCS to accept Acceptable Waste as defined therein delivered by or on behalf of UCUA; and

WHEREAS, Covanta has requested permission from UCUA to deliver between 38,000 to 50,000 tons of non-hazardous ash residue from the UCRRF to the Gloucester County Landfill located in Swedesboro, New Jersey in order to accommodate the acceptance of up to 38,000 tons of non-hazardous ash residue from Covanta Warren at GCS; and

WHEREAS, Covanta is responsible for all costs for transportation and disposal of non-hazardous ash residue from the UCRRF at the Gloucester County Landfill, and ash residue deliveries from Covanta Warren will be treated as deliveries of Acceptable Waste on behalf of UCUA under the Amendment to Landfill Agreement dated June 15, 1998; and

WHEREAS, Covanta has agreed to indemnify, defend, and hold harmless UCUA from and against any and all claims, demands, suits, liabilities, judgments, awards, damages, costs and expenses, in connection with the Disposal Agreement, due to the negligent or willful act or omission of Covanta Sustainable Solutions, LLC, and/or any sub-contractor, its officers, agents, servants, or employees and/or any other person or persons related to the use of the Gloucester County Landfill; and

WHEREAS, Covanta Sustainable Solutions, LLC; GCS; and UCUA have executed a Disposal Agreement as of March 1, 2018, and it is necessary for UCUA to approve and ratify the execution of the Disposal Agreement; and

WHEREAS, the approval and ratification of the execution of the Disposal Agreement is in the best interests of UCUA and is necessary for its continued efficient operation;

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 hereby approves, and ratifies the execution of, the Disposal Agreement and such ratification constitutes its approval of the terms of the

Disposal Agreement, as attached hereto.

3. A copy of this Resolution and each agreement shall be available, upon execution by the parties, for public inspection at the offices of the Authority at 1499 Routes 1 & 9 North, Rahway, New Jersey.
4. This Resolution shall take effect immediately.

DISPOSAL AGREEMENT DRAFT

This Disposal Agreement is made as of March 1, 2018 (this "**Agreement**"), by and between **Grand Central Sanitary Landfill, Inc. ("GCS")** with a principal address of 107 Silvia St. Ewing, NJ 08628, **Covanta Sustainable Solutions, LLC ("Covanta")** with a principal business address of 445 South Street, Morristown, NJ 07960 and the **Union County Utilities Authority ("UCUA")** with a principal business address of 1499 Route 1 South, Rahway, NJ 07065.

WITNESSETH

WHEREAS, Covanta owns and operates an Energy from Waste (EfW) plant located at 218 Mt. Pisgah Avenue, Oxford, NJ (the "**Covanta Warren**") and operates an Energy from Waste (EfW) plant located at 1499 Route 1, Rahway, NJ (the "**Covanta Union**") owned by the UCUA, and Grand Central Sanitary Landfill, Inc. operates a landfill located in Pen Argyl, PA ("**GCS**"); and

WHEREAS, the Covanta Warren and Covanta Union facilities generate a non-hazardous ash residue that requires disposal in a secure, sanitary landfill.

WHEREAS, the UCUA and Alliance Landfill, Inc. (formerly Empire Sanitary Landfill, Inc.) and now GCS as per Resolution 70-2013 dated November 13, 2013, executed an "Amended and Restated Agreement for the Acquisition of an Undivided Interest in Real Property Consisting of the Acquisition of Certain Easement and Landfill License Rights Relating Thereto" dated December 31, 1992, which has been amended and restated (collectively the Easement) and an Amendment to Landfill Agreement dated June 15, 1998 between the UCUA and GCS which obligates GCS to accept Acceptable Waste as defined therein delivered by or on behalf of UCUA;

NOW, THEREFORE, in consideration of the promises contained herein, the parties intending to be legally bound hereby, agree upon the following terms and conditions:

1. Term

The term of this Agreement shall commence on March 1, 2018, and end on the earlier of December 31, 2018, or the date on which GCS has accepted the Maximum Waste Amount unless sooner terminated as provided herein. The term may be extended for an additional six-month period on written mutual agreement of the parties.

2. Volume

a. Covanta Warren will deliver up to 38,000 tons of Acceptable Waste consisting of ash residue to GCS. Deliveries to GCS shall be made at a reasonably consistent daily tonnage level. Covanta Warren shall not deliver Bypassed Waste to GCS under this Agreement.

Covanta Union will divert between 38,000 to 50,000 tons of Acceptable Waste consisting of ash residue from GCSLF to an alternate disposal facility. In the event that Covanta Union resumes delivery of ash residue to GCS during the term of this Agreement, Covanta Warren shall cease its deliveries to GCS.

3. Rate

Ash residue deliveries from Covanta Warren will be treated as deliveries of Acceptable Waste on behalf of the UCUA under the Amendment to Landfill Agreement dated June 15, 1998. Covanta Warren and Covanta Union shall be responsible for all costs of transportation of ash residue.

In the event that ash residue from Covanta Warren has not been approved by the PADEP for beneficial reuse, Covanta Warren will pay the PA Solid Waste Tax of \$6 per ton until such time the Covanta Warren ash residue has been approved for beneficial reuse.

4. **Termination**

Any party may terminate this Agreement on ten (10) days' written notice to the other parties.

5. **Miscellaneous**

Capitalized terms not defined in this Agreement shall the meanings ascribed to them in the Amendment to Landfill Agreement dated June 15, 1998.

Any provision of the Amendment to Landfill Agreement dated June 15, 1998 not amended by this Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

Covanta Sustainable Solutions, LLC

Grand Central Sanitary Landfill, Inc.

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Union County Utilities Authority

By: Daniel P. Sullivan

Print Name: Daniel P. Sullivan

Title: Executive Director

Date: 3/8/18



Powering Today Protecting Tomorrow

Covanta Sustainable Solutions, LLC agrees to indemnify, defend, and hold harmless the Union County Utilities Authority, its Commissioners, officers, agents, servants and employees, from and against any and all claims, demands, suits, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses, including attorneys' fees, because of bodily injury, sickness, disease or death, sustained by any person or persons, or injury or damages to, or destruction of, any property directly or indirectly arising out of, relating to, or in connection with the Disposal Agreement, dated as of March 1, 2018, by and among Grand Central Sanitary Landfill, Inc.; Covanta Sustainable Solutions, LLC; and the Union County Utilities Authority, due to the negligent or willful act or omission of the Covanta Sustainable Solutions, LLC, and/or any sub-contractor, its officers, agents, servants, or employees and/or any other person or persons. Notwithstanding that the Union County Utilities Authority has agreed in the Disposal Agreement to the use of the Gloucester County Landfill, Swedesboro, New Jersey, Covanta Sustainable Solutions, LLC agrees to indemnify and hold harmless Union County Utilities Authority, its Commissioners, officers, agents, servants and employees from any and all claims and liabilities pertaining to the transportation and disposal of ash residue at the Gloucester County Landfill.

Covanta Sustainable Solutions, LLC

By: [Signature]

Print Name: RICHARD J. SANDNER

Title: VP/GENERAL MANAGER NY/NJ REGION

Date: 3/19/18

Union County Utilities Authority

By: [Signature]

Print Name: Daniel P. Sullivan
Executive Director

Title: _____

Date: 3/22/18