

RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY

Resolution No.: 60-2024
Date: November 13, 2024

Approved as to form:

Bianka Vargas, Clerk

Approved as to sufficiency of funds:

John Cuffo, Acting Comptroller
[] YES [] NO [X] NONE REQUIRED

APPROVING AND AUTHORIZING THE EXECUTION OF A SUCCESSOR AGREEMENT WITH PHILLIPS 66 COMPANY PROVIDING FOR THE DISPOSAL OF ID TYPE 27 SOLID WASTE GENERATED BY PHILLIPS 66 COMPANY AT ALTERNATE DISPOSAL FACILITIES CONSISTENT WITH THE UNION COUNTY DISTRICT SOLID WASTE MANAGEMENT PLAN

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 County Commissioners in accordance with the provisions of the Municipal and County Utilities Authorities Law, N.J.S.A. 40:14B-1 et seq. ("MUA Law"), 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 County Commissioners ("County Commissioners") 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 County Commissioners designated the UCUA as the agency responsible for the implementation of the County Plan, pursuant to and in accordance with the SWMA as the UCUA is empowered, pursuant to the MUA Law, to plan, acquire, construct, maintain and operate facilities for the processing, disposal and/or recycling of solid waste generated in the County; and

WHEREAS, the UCUA, in its capacity as implementing agency for the County Plan, has previously developed, implemented and financed (through the issuance of long-term revenue bonds) a solid waste management system which included the construction of the Union County Resource Recovery Facility ("UCRRF") to provide for the processing and disposal of all solid waste generated within the geographic boundaries of the County; and

WHEREAS, the County 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, thereafter, the County adopted periodic amendments to the County Plan to re-affirm and continue the County's exercise of regulatory flow control over all Non-Processible Waste generated within the County and most recently, on February 13, 2024, the UCUA awarded a contract to Waste Management of New Jersey, Inc. for the provision of solid waste disposal services at its Front Street transfer station and materials recovery facilities in Elizabeth, New Jersey ("WMX Front Street facility") for all Non-Processible Waste generated within the County over a term of three years, commencing on June 20, 2024, and an amendment to the County Plan has been certified by NJDEP to that effect; and

WHEREAS, in order to respond to concerns raised by some generators as to future liability pertaining to the disposal of certain Non-Processible Waste, in particular ID Type 27, on the basis that the particular characteristics of this waste necessitated special handling and disposal to ensure total destruction, on December 15, 1999 the UCUA adopted an administrative action to the County Plan to allow all such generators to dispose of this waste at permitted facilities of their selection provided the generator entered into a written agreement with the UCUA containing certain material terms (the "December 15, 1999 Administrative Action"); and

WHEREAS, following NJDEP's approval of the December 15, 1999 Administrative Action on January 13, 2000, the UCUA engaged in discussions with affected generators, including one of Phillips 66's predecessors in interest, Tosco Corporation, regarding alternate disposal arrangements which ultimately resulted in the UCUA entering into an agreement with a Phillips 66 predecessor in interest, ConocoPhillips Company ("ConocoPhillips") on July 18, 2001 (hereinafter the "2001 Agreement") governing the alternate disposal of ConocoPhillips's Union County generated ID Type 27 Waste; and

WHEREAS, following further negotiations between the UCUA and ConocoPhillips, on March 27, 2009 the parties entered into a successor agreement for the alternate disposal of Union County generated ID Type 27 Waste (hereinafter the "2009 Agreement"); and

WHEREAS, in May 2012, due to a change in business structure, the subject facility owned by ConocoPhillips became owned by Phillips 66 Company ("Phillips 66"), and the Agreement was assigned to Phillips 66 at that time; and

WHEREAS, the parties subsequently executed two addendums to the 2009 Agreement, in November 2014 and in December 2019, for the purpose of amending and extending the 2009 Agreement; and

WHEREAS, the UCUA continues to determine that the agreement with Phillips 66 is necessary, will advance the purposes of the SWMA, is consistent with the County Plan, and will ensure the continuity of regulatory flow control over all Non-Processible Waste; and

WHEREAS, in lieu of a third addendum to the 2009 Agreement, the parties wish to enter into an updated Agreement, which incorporates amendments made in the two addendums described above, and which shall serve as the successor agreement to the 2009 Agreement, for a new term from January 1, 2025 to December 31, 2029.

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 successor Agreement between the UCUA and Phillips 66 Company effective as of January 1, 2025 and ending December 31, 2029 is hereby approved in substantially the same form as is attached hereto and the Chairman and Executive Director are hereby authorized and directed to execute the Agreement.

3. General Counsel is hereby authorized and directed to prepare and submit, at the appropriate time if necessary, any petitions and/or documentation to the NJDEP in connection with the Agreement.

4. A copy of this Resolution and the 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.

5. This Resolution shall take effect immediately.

	PRESENT	ABSENT	AYE	NAY	ABSTAIN	MOTION	SECOND
<i>Eastman</i>		✓					
<i>Figueiredo</i>	✓		✓				
<i>Holder</i>	✓		✓				
<i>Jackus</i>	✓		✓				
<i>Kahn</i>	✓		✓				
<i>McManus</i>	✓		✓				✓
<i>Rachlin</i>	✓		✓			✓	
<i>Scutari</i>	✓		✓				
<i>Szpond</i>	✓		✓				
<i>Alma, Alternate No. 1</i>	✓		✓				
<i>Scott-Bey, Alternate No. 2</i>	✓						