



UNION COUNTY UTILITIES AUTHORITY

1499 US Highway One, Rahway, New Jersey 07065

(732) 382-9400

FAX (732) 382-5862

RESOLUTION NO.: 81-2015

DATED: December 16, 2015

RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY AWARDDING A CONTRACT TO WASTE MANAGEMENT OF NEW JERSEY, INC. FOR THE PROVISION OF DISPOSAL SERVICES FOR SOLID WASTE TYPES 13, 13C, 23 AND 27 GENERATED IN UNION COUNTY AND AUTHORIZING THE EXECUTION OF A CONTRACT WITH WASTE MANAGEMENT OF NEW JERSEY, INC.

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 (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>	✓		✓				

RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY AWARDING A CONTRACT TO WASTE MANAGEMENT OF NEW JERSEY, INC. FOR THE PROVISION OF DISPOSAL SERVICES FOR SOLID WASTE TYPES 13, 13C, 23 AND 27 GENERATED IN UNION COUNTY AND AUTHORIZING THE EXECUTION OF A CONTRACT WITH WASTE MANAGEMENT OF NEW JERSEY, INC.

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, the Board of Chosen Freeholders of the County of Union ("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") as the agency responsible for implementing the County Plan; and

WHEREAS, the County Plan was amended 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") to, among other things define the County's new disposal strategy, based upon voluntary contracts, as to Solid Waste Types 10 and 25, and including the lease by the UCUA to Ogden Martin Systems of Union, Inc. (now known as Covanta Union, Inc.) of the Union County Resource Recovery Facility (the "UCRRF") and the real property and improvements upon which the UCRRF is constructed, and re-affirm the County's disposal strategy, based upon regulatory flow control, as to Solid Waste Types 13, 23 and 27 generated within the County; and

WHEREAS, the County Plan was amended on May 21, 1998 (the "May Plan Amendment"), in pertinent part, to re-establish regulatory flow control over Solid Waste Types 13 (including 13C), 23 and 27 ("Non-Processible Waste"), pursuant to a non-discriminatory procurement in accordance with Atlantic Coast; and

WHEREAS, by Certification of the New Jersey Department of Environmental Protection ("NJDEP") on July 20, 1998, the May Plan Amendment was approved, with modifications, contingent upon receipt and approval by the NJDEP of a subsequent plan amendment documenting the completion of a non-discriminatory procurement process and award of non-discriminatory bid contracts to provide for the disposal of Non-Processible Waste; and

WHEREAS, in 1998, the Authority completed a public procurement process and awarded non-discriminatory bid contracts to the Hackensack Meadowlands Development Commission ("HMDC") as the lowest responsible bidder for the disposal of Non-Processible Waste; and

WHEREAS, as a result of the contract award to the HMDC and in accordance with the NJDEP's July 20, 1998 Certification, the Authority recommended a Plan Amendment to the Union County Board of Chosen Freeholders for consideration, which was adopted by the County and approved by NJDEP; and

WHEREAS, in anticipation of the expiration of the contract with the HMDC, the Authority undertook a public procurement process in 2003 and awarded a non-discriminatory bid contract to Waste Management of New Jersey, Inc. ("WMI") as the lowest responsible bidder for the disposal of Non-Processible Waste; and

WHEREAS, the contract with WMI was scheduled to expire on July 1, 2007 and the Authority issued bids to procure and award a contract for the disposal of Non-Processible Waste in order to maintain safe, adequate and proper disposal services for the citizens of the County and for the efficient operations of the Authority; and

WHEREAS, in response to these Bid Specifications, the Authority awarded a contract to the lowest,

responsible and complying bidder - Delaware and Hudson Railway Company, Inc. d/b/a Canadian Pacific Railway Inc. ("Canadian Pacific"), in accordance with the Local Public Contracts Law, for the provision of solid waste disposal services for Non-Processible Waste; and

WHEREAS, in or around December 28, 2006, WMI, a losing bidder, thereafter filed suit in the Superior Court of New Jersey, Law Division, against the Authority, and challenged the bid award, in the matter of Waste Management of New Jersey, Inc. v. Union County Utilities Authority, et als., Docket No. UNN-L-4449-06; and

WHEREAS, the parties agreed to a stay of the July 1, 2007 implementation date for the Canadian Pacific contract pending the opportunity for full briefing and a hearing in the Law Division on the merits of WMI's claims; and

WHEREAS, after said briefing and hearing, on May 25, 2007, the Law Division entered a final order permanently enjoining and restraining the Authority from proceeding with the contract award to Canadian Pacific; and

WHEREAS, because of the pending appeal in the Superior Court of New Jersey, Law Division, which would not likely be resolved prior to the expiration of the then-current contract with WMI for the disposal of Non-Processible Waste, the Authority desired to ensure continued flow control and entered into a contract with the New Jersey Meadowlands Commission ("NJMC") for the provision of disposal services for Non-Processible Waste, for a period of 18-months commencing on July 1, 2007, whereby all Non-Processible Waste would be directed to NJMC disposal facilities; and

WHEREAS, upon completion of the Superior Court litigation, NJDEP approved a February 2007 Plan Amendment by Certification issued on September 18, 2008, and the Authority awarded a contract to and entered into an agreement with Canadian Pacific for Non-Processible Waste disposal services effective January 1, 2009 and continuing through December 31, 2013; and

WHEREAS, in communications with General Counsel for the Authority, Canadian Pacific advised the Authority that it had filed for Chapter 7 Bankruptcy on June 19, 2012 in the United States Bankruptcy Court for the District of New Jersey, Case No.: 12-25683, could not accept any solid waste for processing under its agreement with the Authority and that it had "shut the gates" to the Facility; and

WHEREAS, the failure of Canadian Pacific to perform the services required under the Disposal Services Agreement constituted a material breach of the Canadian Pacific agreement, and compelled the Authority to take immediate, interim action to make available to solid waste haulers in the County appropriate solid waste facilities due to the closure of the Facility in order to preserve the public health, safety and welfare; and

WHEREAS, the Authority expeditiously engaged in negotiations and entered into an agreement with the NJMC as to the terms for a possible emergent interim agreement for the provision of disposal services for Non-Processible Waste, for a period not exceeding 12-months commencing no earlier than June 21, 2012 ("Interim NJMC Agreement"); and

WHEREAS, on May 3, 2013, the Authority issued Bid Specifications for the provision of disposal services for Non-Processible Waste and, in response to said Bid Specifications, on June 7, 2013, received bids from the following companies involved in the solid waste disposal industry: Advanced Environmental Recycling, Inc. and Waste Management of New Jersey, Inc.; and

WHEREAS, the Authority, in an attempt to obtain the most cost-efficient and effective services for the disposal of Non-Processible Waste, entered into negotiations with the NJMC in accordance with the Local Public Contracts Law; and

WHEREAS, NJMC (now known as the New Jersey Sports and Exposition Authority) was awarded a contract by the Authority for the provision of disposal services for Non-Processible Waste for a period of thirty-six months commencing on July 18, 2013, at the rate of \$55 per ton, which rate is substantially lower than the rates received through public bidding for the services; and

WHEREAS, pursuant to the contract with NJMC and NJDEP's March 26, 2014 Certification of a Plan Amendment, all Non-Processible Waste is directed to the NJMC Keegan Landfill and disposal facilities through June 19, 2016; and

WHEREAS, on November 15, 2015, the Authority issued Bid Specifications for the provision of disposal services for Non-Processible Waste; and

WHEREAS, in response to Bid Specifications, on December 10, 2015, the Authority received a single bid from WMI; and

WHEREAS, the bids have been reviewed by the Authority's Staff, Special Counsel, and Consulting Engineer; and

WHEREAS, the Authority's Staff and professional consultants have recommended that a contract be awarded to WMI at the prices bid as the lowest complying and responsible bidder, in accordance with the Local Public Contracts Law, for the provision of solid waste disposal services for Non-Processible Waste generated within the County; and

WHEREAS, it is necessary for the health, safety and welfare of the citizens of the County and the efficient operation of the Authority that a contract be awarded to WMI for the provision of disposal services for Non-Processible Waste;

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. A three-year contract for the provision of solid waste disposal services for Non-Processible Waste generated within the County be awarded to WMI in accordance with its Bid and the Bid Specifications at the following per ton costs:

Year 1 - \$68.50
Year 2 - \$69.87
Year 3 - \$71.26
3. The award of a contract to WMI is expressly contingent upon the adoption of a plan amendment by the County, incorporating the contract with Waste Management, continuing waste flow control over Non-Processible Waste, and approval of the plan amendment by the NJDEP.
4. The Executive Director of the Authority is hereby authorized and directed to execute a contract with WMI, substantially in the form included in the Bid Specifications, at the earliest possible date, and Special Counsel is hereby authorized and directed to prepare and submit any petitions to the New Jersey Department of Environmental Protection that may be necessary for approval of the disposal services contract and any rate to be charged for the disposal of Non-Processible Waste.
5. Notice of this action shall be published as required by law.

6. A copy of this Resolution, together with a copy of the executed contract, shall be forwarded to the Clerk of the County for public inspection, and this Resolution and contract authorized hereunder shall also 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.
7. This Resolution shall take effect immediately.

JOHN H. ALLGAIR, PE, PP, LS (1983-2001)
DAVID J. SAMUEL, PE, PP, CME
JOHN J. STEFANI, PE, LS, PP, CME
JAY B. CORNELL, PE, PP, CME
MICHAEL J. McCLELLAND, PE, PP, CME
GREGORY R. VALES, PE, PP, CME



TIMOTHY W. GILLEN, PE, PP, CME
BRUCE M. KOCH, PE, PP, CME
LOUIS J. PLOSKONKA, PE, CME
TREVOR J. TAYLOR, PE, PP, CME
BEHRAM TURAN, PE, LSRP

December 15, 2015

Daniel Sullivan, Executive Dir.
Union County Utilities Authority
1499 Routes 1 and 9 N. Rahway, NJ 07065

**Re: Bid Submission Evaluation
Non— Process able Waste Disposal Services
Waste Management of New Jersey, Inc.
Our File No. PUC00035.24**

Dear Mr. Sullivan:

As requested by the Authority this office has reviewed the technical aspects of the bids as submitted on December 10, 2015 for the above referenced project.

There was only one bid submitted, that being by Waste Management of New Jersey Inc., 107 Sylvia St., Ewing, NJ 08628. We defer to the Authority's Solid Waste Counsel for the review of Volume I of the Bid Forms regarding non-technical issues.

We reviewed the Statement of Relevant Experience, Equipment and Facility Certification, List of Facilities Owned, Operated or Controlled by Bidder, Certification of Owner or Control of Facilities, GROWS North Landfill, Grand Central Sanitary Landfill, and Vision Transport As contained within Volume I. In addition, we reviewed the Technical Proposal – Volume II, Volume II-A (Julia Street), Volume II – B-D GROWS North Landfill, and Volume II – E Grand Central Sanitary Landfill.

Julia Street Transfer Station is a fully permitted facility of 11,700 tons per week capacity. Section 1 – 7 indicates all annual contracted commitments, including the contract expiration date, for disposal of solid waste at the Transfer Station and said table indicates there is adequate capacity for the Authority's 60,000 tons per year contract amount. Section 2 of Volume I – Vision Transport Inc. addresses the number of tractors and trailers as owned, operated and/or maintained by Vision Transport. Based on the information provided, it appears that Vision Transport has adequate facilities as necessary to provide transportation of the Authority's contract amount of approximately 200 tons per day from the Julia Street Transfer Station to the designated Landfill disposal sites located in Pennsylvania. GROWS North Landfill, located in Falls Township, Bucks County, Pennsylvania is a fully permitted 10,000 tons per day landfill disposal facility. It's permit is current until February 15, 2019 and, based on data supplied, appears to have adequate capacity to address the Authority's projected daily demands. Grand Central Sanitary Landfill, located in Plainfield Township, Northampton County, Pennsylvania, is also a fully permitted 2750 tons per day landfill disposal facility. It's permit expires August 1, 2018. It also, based on data supplied, appears to have adequate capacity to address the Authority's projected daily demands.



Mr. Daniel Sullivan
December 15, 2015
Page 2

Based on the information as provided within the bid document submittals, is our professional opinion that Waste Management of New Jersey Inc. has the appropriate equipment, personnel, capabilities, and capacity for addressing the Authority's needs and demands for the duration of the contract, same being either three or five years. Accordingly, we would advise that the Authority can, subject to concurrence by the Authority's Solid Waste Counsel, award the bid for Non-Processable Waste Disposal Services to Waste Management of New Jersey, Inc. in accordance with the bid specifications.

We trust the above self-explanatory sufficient for your purposes. Should you have any questions regarding this matter, please contact this office.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Timothy W. Gillen', with a large, sweeping flourish above the name.

Timothy W. Gillen, P.E., P.P., C.M.E.
Office of the Authority Engineer

TWG/blr

cc: Lisa M da Silva Deputy Chief
Kraig M Dowd. Esq.
Jeffrey Paul Hummel, Sr.
Kevin Conti Esq
Alan Harlseton
Leah Riley
Ed Traina, P.E.