



# UNION COUNTY UTILITIES AUTHORITY

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RESOLUTION NO.: 95-2014

DATED: November 12, 2014

**RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY  
APPROVING AND AUTHORIZING COVANTA UNION, INC. TO PROCURE  
DELIVERIES OF SOLID WASTE FROM GOVERNMENTAL UNITS IN  
SATISFACTION OF THE AUTHORITY'S OBLIGATIONS PURSUANT TO THE  
SECOND AMENDMENT TO THE AMENDED AND RESTATED WASTE  
DISPOSAL AGREEMENT**

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>Eastman</i>		✓					
<i>Jackus</i>	✓		✓				
<i>Kahn</i>	✓		✓				
<i>Kennedy, Secretary</i>		✓					
<i>Kulish</i>		✓					
<i>People, Treasurer</i>	✓		✓				
<i>ErDOS, Vice Chairwoman</i>	✓		✓				
<i>Huff, 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 negotiated amendments to the Facility Lease and the 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 in order to achieve, among other benefits, appreciable long-term disposal rate relief stabilization for County residents and taxpayers without compromising the continued sound and efficient operation of the UCRRF; and

**WHEREAS**, the Authority filed a petition in 2011 with, and received approval from, the New Jersey Department of Environmental Protection ("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 amendments to the Facility Lease and Waste Disposal Agreement; and

**WHEREAS**, pursuant to the Waste Disposal Agreement, as amended, the Authority has executed long-term agreements with certain municipalities and other governmental units in the County for the delivery of municipal solid waste to the UCRRF, and is required to enter into

contracts with other governmental units in order to satisfy its guaranteed solid waste delivery obligations to Covanta; and

**WHEREAS**, Covanta has indicated to the Authority that it has opportunities to procure contracts with governmental units for the delivery of additional solid waste to the UCRRF to assist the Authority in satisfying its delivery obligations under the Waste Disposal Agreement, as amended; and

**WHEREAS**, pursuant to the Waste Disposal Agreement, as amended, Covanta may arrange for the delivery of solid waste to the UCRRF on any terms and conditions that it deems appropriate provided that the acceptance of such solid waste does not impair its ability to fully satisfy its obligations to process and dispose of solid waste delivered by or on behalf of the Authority, or cause Covanta or the UCRRF to violate any law applicable to Covanta or the UCRRF; and

**WHEREAS**, Covanta is prohibited under the Waste Disposal Agreement, as amended, from accepting solid waste from governmental units that would impact the Authority's ability to fulfill its guaranteed tonnage delivery obligation; and

**WHEREAS**, the Authority wishes to authorize Covanta to procure long-term contracts with governmental units to provide solid waste disposal services in satisfaction of the Authority's obligation under the Waste Disposal Agreement, as amended, to deliver solid waste annually to the UCRRF from out-of-County sources; and

**WHEREAS**, the Authority's authorization for Covanta to procure long-term contracts for the delivery of solid waste to the UCRRF for disposal is in the Authority's best interests and is necessary for its efficient operations;

**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. Covanta is hereby authorized to procure long-term contracts with governmental units to provide solid waste disposal services in satisfaction of the Authority's delivery obligation under the Waste Disposal Agreement, as amended, to deliver solid waste annually to the UCRRF from out-of-County sources and without reference to any mitigation formula or price.
3. Special Counsel, in conjunction with the Authority's General Counsel, is hereby authorized to prepare any amendments necessary to the Waste Disposal Agreement to effectuate Covanta's procurement of long-term solid waste contracts and to obtain all requisite approvals to implement this authorization of Covanta, and the Chairman is authorized and directed to execute all documents as may be required to implement this authorization.
4. This resolution shall take effect immediately.