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**ORDINANCE OF THE BOARD OF CHOSEN FREEHOLDERS
COUNTY OF ESSEX**

0-2020-00015
Ordinance No. _____

Statutory Authority for Ordinance NJSA40A-38
Authority for Action NJSA 40-41 A-36
NJSA 12:1E-23 & 24
NJAC 7:26-6.11(B) 3

Proposed by:

**SUBJECT: ORDINANCE AMENDING THE ESSEX COUNTY DISTRICT SOLID
WASTE MANAGEMENT PLAN**

INCLUSION OF THE CONTRACT BY AND BETWEEN THE ESSEX COUNTY UTILITIES
AUTHORITY AND WASTE MANAGEMENT OF NEW JERSEY, INC. FOR THE
~~TRANSFER, TRANSPORTATION AND DISPOSAL OF PROCESSIBLE COMMERCIAL~~
SOLID WASTE GENERATED WITHIN ESSEX COUNTY AND DIRECTION OF ALL
PROCESSIBLE COMMERCIAL WASTE TYPES I 0,23,25 AND 27 TO THE WASTE
MANAGEMENT OF NEW JERSEY, INC. TRANSFER STATION IN ELIZABETH, NEW
JERSEY PURSUANT TO REGULATORY WASTE FLOW CONTROL

AS RECOMMENDED BY THE
ESSEX COUNTY UTILITIES AUTHORITY

WHEREAS, pursuant to the provisions of the New Jersey Solid Waste Management Act, constituting Chapter 39 of the Pamphlet Laws of 1970, of the State of New Jersey, and the acts amendatory thereof and supplemental thereto, the County of Essex, New Jersey ("the County") has been designated as a Solid Waste Management District and as such, is charged with the responsibility of adopting and providing for the implementation of the Essex County District Solid Waste Management Plan (the "County Plan") to provide for the disposal generated within the geographic boundaries of the County; and

WHEREAS, the Board of Chosen Freeholders of the County of Essex (the "County") developed, and the New Jersey Department of Environmental Protection (the "Department") subsequently approved, the County Plan for the Essex County Solid Waste Management District, which provides for, among other things, the development and implementation of a comprehensive solid waste system relating to the collection and disposal of County-generated solid waste; and

WHEREAS, in order to, among other things, provide for the provision of solid waste management services in a more effective and efficient manner, the Board of Chosen Freeholders, by ordinance finally adopted on July 1, 1992, created The Essex County Utilities Authority (the "Authority") as a public body corporate and politic of the State of New Jersey, with all necessary and proper powers to acquire, construct maintain, and operate or contract for the operation of facilities for the collection, transportation, processing, recycling and disposal of solid waste generated within the geographic boundaries of the County in an environmentally sound manner; and

WHEREAS, on August 4, 1993, the Board of Chosen Freeholders of the County adopted an amendment to the County Plan designating the Authority as the sole agency responsible for implementation of the County Plan, and

WHEREAS the subject amendment is summarized as follows:

This Plan Amendment is prepared as a result of a non-discriminatory public bid procurement for the transfer, transportation and disposal of Processible Commercial Waste generated within Essex County, being solid waste types 10, 23, 25 and 27. The purpose of this Plan Amendment is to incorporate into the County Plan, the Waste Management of New Jersey, Inc. Julia Street Transfer Station in Elizabeth, New Jersey and Waste Management of Fairless landfill in Morrisville, PA. as the County's designated facilities to which Processible Commercial Waste is directed for disposal, the Contract by and between the Authority and Waste Management of New Jersey, Inc. for Processible Commercial Waste disposal services, and the direction of all Processible Commercial Waste to the Waste Management of New Jersey, Inc. Transfer Station in Elizabeth, New Jersey, pursuant to regulatory flow control, and

WHEREAS the Authority has engaged in a non-discriminatory procurement process in the Authority advertised locally in the Bergen Record on July 14, 2020 and throughout New Jersey in the Star Ledger on July 10, 2020 announcing the issuance of bid specifications calling for receipt of bids on August 14, 2020 for the provision of transfer, transportation and disposal of Processible Commercial Waste generated within Essex County for the period January 1, 2021 until December 31, 2025. The Authority further advertised on July 13-31, 2020 on a National website known On Line Waste 360, a National on line publication for the waste industry announcing the issuance of bid specifications calling for receipt of bids on August 14, 2020 for the provision of transfer, transportation and disposal of Processible Commercial Waste generated within Essex County for the period January 1, 2020 until December 31, 2025 regionally and nationally in the New York Times a national publication. These advertisements were placed in order to assure a procurement process that was open to all bidders, regardless of geographic location, in order to assure the continuation of regulatory flow control. The Authority received two bids: Waste Management and IWS Transfer Systems of New Jersey (Interstate), and

WHEREAS the bid of Waste Management of New Jersey, Inc. was the lowest responsible bidder in full compliance with the bid specifications, bidding \$73.39 per ton for the first year, \$76.33 for the second year and \$79.38 for the third year, \$82.55 for the fourth year and \$85.86 for the fifth year.

WHEREAS the ECUA has advised that currently all processible solid waste types 10,23, 25, and 27 currently are directed to and disposed of at the Waste Management Julia Street Facility pursuant to a public bid contract which expires December 31, 2020 and regulatory waste flow control.

WHEREAS the ECUA has further advised that this facility has been very convenient to Essex County haulers and had handled the delivery of waste over this period of time in a Careful and expeditious manner.

WHEREAS this new public bid contract with Waste Management will result in the continuation of low tipping fees for Essex County businesses and haulers for 2021 and thereafter.

WHEREAS the ECUA as the regulatory agency for the collection and disposal of solid waste generated within the geographic boundaries of Essex County has directed, pursuant to Regulatory Waste Flow control, all commercial processible solid waste to the Waste Management facility for the period of January 1, 2021 to December 31, 2025.

WHEREAS as a result of Regulatory Waste flow control the ECUA has been able to reduce its bonded indebtedness (guaranteed by the County of Essex) from over \$104 million in 2003 to \$25 million as of the end of 2019.

WHEREAS this public bid contract with Waste Management, together with regulatory flow control for the disposal of Municipal Processible Waste, non-processible bulky waste and commercial processible waste will result in a continuation of substantial reduction of ECUA bonded indebtedness throughout the term of this five (5) year public bid contract.

WHEREAS by Resolution 09-20-33 duly adopted September 15, 2020 the Authority awarded a Contract to Waste Management on New Jersey Inc., as the lowest responsible bidder for the provision of services for Commercial Processible Solid Waste Transfer, Transportation and/or Disposal Services for the period commencing on or about January 1, 2021 and terminating on December 31, 2025.

WHEREAS the Authority by Resolution 09-20-33 duly adopted September 15, 2020 recommended to the Board of Chosen Freeholders that the Plan Amendment be approved, after public hearing in accordance with the Solid Waste Management Act

NOW THEREFORE, BE IT ORDAINED by the Essex County Board of Chosen Freeholders, as follows:

1. The Essex County District Solid Waste Management Plan is hereby amended, pursuant to NJAC 7:26-6.11(B)3 to include the within Plan Amendment, which is attached hereto and which by this reference is incorporated as if fully set forth herein, to include Waste Management of New Jersey, Inc. Julia Street Transfer Station in Elizabeth, New Jersey and Waste Management of Fairless Landfill in Morrisville, P.A. as the County's designated facilities for Essex County Commercial Processible Solid Waste Types 10,23,25 and 27 and inclusion of the Contract between Waste Management of New Jersey, Inc. and the Essex County Utilities Authority for Commercial Processible Solid Waste disposal services for the period January 1, 2021 until December 31, 2025 and for the direction of all Commercial Processible Waste to the Waste Management of New Jersey, Inc. Transfer Station in Elizabeth, New Jersey pursuant to Regulatory Waste Flow Control.

2. Any provision of the County Plan that is inconsistent with the ~~Plan Amendment is hereby repealed to the extent of said inconsistency and the provisions~~ of the Plan Amendment shall be fully effective and shall control.

3. A public hearing relating to this Ordinance shall be held in accordance with N.J.S.A. 12:1E-23, on _____

4. The Clerk of the Board of Chosen Freeholders is hereby directed to send notice of said public hearing and copies of this Ordinance and the County Plan and the attached Plan Amendment to the Mayor of each municipality within the county, and to publish notice of such public hearing once each week for two consecutive weeks, the last publication to be not less than ten (10) days prior to the date set forth for such public hearing. Said notices shall state that the County Plan and the attached Plan Amendment will be available for review at the office of the Clerk of the Board of Chosen Freeholders.

5. Upon adoption, a certified copy of this Ordinance and the attached Plan Amendment shall be submitted to the Commissioner of the NJDEP pursuant to N.J.S.A. 12:1E-23 and 24, together with a copy of the transcript of the public hearing thereon.

6. This Ordinance shall take effect at the time and in the manner prescribed by law.

7. Upon adoption, the Clerk of the Board of Chosen Freeholders shall forward certified copies of this Ordinance and Plan Amendment, a copy of the transcript of the public hearing to the Commissioner of the N.J. Department of Environmental Protection, the County Executive and the Essex County Utilities Authority.

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RECEIVED
CLERK OF THE BOARD

PLAN AMENDMENT TO THE ESSEX COUNTY DISTRICT SOLID WASTE MANAGEMENT PLAN

INCLUSION OF WASTE MANAGEMENT OF NEW JERSEY, INC.

I. INTRODUCTION

The Solid Waste Management Act, N.J.S.A. 13:1E-1st se. (the "Solid Waste Act") Requires that each solid waste management district include in its solid waste management plan suitable sites to treat and dispose of all solid waste generated within the district, and that such plan also include a statement of the solid waste disposal strategy to be applied in the district on July 16, 1980, the Board of Chosen Freeholders of the County of Essex (the "County") adopted the Essex County District Solid Waste Management Plan (the "Essex Plan"), which was subsequently approved by the New Jersey Department of Environmental Protection ("NJDEP") on August 13, 1980.

In 1992, the County created the Essex County Utilities Authority (the "ECUA") as a public body corporate and politic of the State of New Jersey, with all necessary and proper powers to acquire, construct, maintain and operate or contract for the operation of facilities for the collection, transportation, processing, recycling and disposal of solid waste generated within the County. In 1993, the County amended and the NJDEP approved the Essex Plan to designate the ECUA as the sole agency responsible for implementation of the Essex Plan. Thereafter, the County assigned all of its rights and obligations under existing solid waste disposal, transportation and processing contracts to the ECUA and since such assignment the ECUA has assumed and carried out all duties and responsibilities relating to solid waste originating within the geographic boundaries of the County. The Essex Plan has since been amended and modified from time to time.

II

INCLUSION OF THE PUBLIC BID CONTRACT BETWEEN WASTE MANAGEMENT OF NEW JERSEY INC AND THE ESSEX COUNTY UTILITIES AUATHORITY FOR THE DISPOSAL OF PROCESSIBLE COMMERCIAL SOLID WASTE GENERATED IN ESSEX COUNTY

This Plan Amendment is for the inclusion of the Public Bid Contract by and between the Essex County Utilities Authority and Waste Management of New Jersey, Inc. for the transfer, transportation and disposal of Processible Commercial Solid Waste generated in Essex County and direction of all Essex County Commercial Processible Waste Types 10, 23, 25 and 27 to the Waste Management of New Jersey, Inc. Transfer Station in Elizabeth, New Jersey pursuant to Regulatory Flow Control for the period commencing on January 1, 2021 and terminating on December 31, 2025.

This Plan Amendment is prepared as a result of a non-discriminatory public bid procurement for the transfer, transportation and disposal of Commercial Processible Waste generated in Essex County, being solid waste types 10, 23, 25 and 27. The purpose of this Plan Amendment is to incorporate into the County Plan the Waste Management of New Jersey, Inc. Julia Street Transfer Station in Elizabeth, New Jersey, as the County's designated facility to which Commercial Processible Waste is directed for disposal, the Contract by and between the Authority and Waste Management of New Jersey, Inc for Commercial Processible Waste disposal services for the period January 1, 2021 until December 21, 2025, and the direction of all Commercial Processible Waste generated in Essex County to the Waste Management of New Jersey, Inc. Transfer Station in Elizabeth, New Jersey pursuant to Regulatory Flow Control.

Essex County Utilities Authority Resolution No. 09-20-33 duly adopted September 15, 2020 awarded a non discriminatory Public Bid Contract to Waste Management of New Jersey, Inc. as lowest responsible bidder for the provision of services for Commercial Processible Solid Waste Transfer, Transportation and Disposal services for the period commencing on or about January 1, 2021 and termination on December 31, 2025.

During the entire term of the five (5) year public bid contract, this Plan Amendment requires and includes the payment by the facility (and is included in the service charges throughout the term of the contract) of the \$3.00 per ton recycling tax imposed by the Recycling Enforcement Act (N.J.S.A. 13:1E-96.2 et. seq.) on all commercial processible waste disposed of at the Waste Management of New Jersey Inc. facility.

The Essex County District Solid Waste Management Plan is hereby amended pursuant to NJAC 7:26-611 (B) 3 to include the Contract by and between the Essex County Utilities Authority and Waste Management of New Jersey, Inc. for the Transfer, Transportation and Disposal of Commercial Processible Waste generated within Essex County, being Types 10, 23, 25 and 27 and direction of all Commercial Processible Waste generated in Essex County to the Waste Management of New Jersey, Inc. Transfer Station in Elizabeth, New Jersey pursuant to Regulatory Waste Flow Control.

III SCOPE OF AMENDMENT

This Amendment is intended to modify only those portions of the approved Essex Plan specifically addressed herein. All previously approved provisions, which are not inconsistent with this Amendment, are intended to remain in full force and effect.

If any clause, provision subsection, section or article of the Amendment shall be ruled invalid by any court of competent jurisdiction or administrative agency the invalidity of such clause, provision subsection, or article shall not affect any of the remaining portions of this Amendment.
