



7/28/2011

UNION COUNTY BOARD OF CHOSEN FREEHOLDERS

ORDINANCE NUMBER: *724-2011*
 DATE OF INTRODUCTION: *July 28, 2011*
 DATE OF ADOPTION: *August 25, 2011*

ORDINANCE OF THE COUNTY OF UNION, NEW JERSEY, AUTHORIZING A DEFICIENCY AGREEMENT AND A LIMITED DEFICIENCY AGREEMENT BETWEEN THE COUNTY OF UNION, NEW JERSEY, AND THE UNION COUNTY UTILITIES AUTHORITY RELATING TO THE DISPOSAL OF SOLID WASTE BY THE AUTHORITY OR THE DISPOSAL OF SOLID WASTE ORIGINATING IN THE COUNTY, PROVIDING FOR PAYMENT OF A PORTION OF THE COST AND EXPENSE THEREOF AND CONSENTING TO THE ISSUANCE OF BONDS BY THE UNION COUNTY UTILITIES AUTHORITY TO BE SECURED BY THE COUNTY OF UNION PURSUANT TO THE DEFICIENCY AGREEMENT AND THE LIMITED DEFICIENCY AGREEMENT

WHEREAS, pursuant to the Municipal and County Utilities Authorities Law, constituting Chapter 183 of the Pamphlet Laws of 1957 of New Jersey and the acts amendatory thereof and supplemental thereto (herein called the "Act"), the Union County Utilities Authority (the "Authority") has been created by virtue of an ordinance of the County of Union, New Jersey (the "County") finally adopted on June 5, 1986, by the Board of Chosen Freeholders of the County; and

WHEREAS, pursuant to the Act, the Authority is authorized to provide solid waste services and facilities within or without the district of the Authority, in a manner consistent with the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) and in conformance with the "solid waste management plan" of the County formulated thereunder; and

NO SUFFICIENCY OF FUNDS REQUIRED
Frank W. Padavan continued...

INTRODUCTION								RECORD OF VOTE <i>7/27/2011</i>								FINAL ADOPTION							
FREEHOLDER	Aye	Nay	Abs	Pass	Ord.	Sec	NP	FREEHOLDER	Aye	Nay	Abs	Pass	Ord.	Sec	NP								
CARTER	X							CARTER	X														
ESTRADA	X							ESTRADA	X														
HUDAK	X							HUDAK	X					X									
JALLOH							X	JALLOH	X														
KOWALSKI	X							KOWALSKI	X														
SULLIVAN			X					SULLIVAN							X								
WARD							X	WARD	X														
MIRABELLA VICE CHAIRMAN	X							MIRABELLA VICE CHAIRMAN	X														
SCANLON CHAIRMAN	X				X			SCANLON CHAIRMAN	X				X										

APPROVED AS TO FORM

 COUNTY ATTORNEY

I hereby certify the above is an original ordinance adopted by the Board of Chosen Freeholders of the County of Union on the aforementioned date.

 CLERK

I hereby certify this is a true copy of a ordinance adopted by the Board of Chosen Freeholders of the County of Union on the aforementioned date.

 CLERK

WHEREAS, the Authority has heretofore proceeded with the development and construction of a solid waste system (the "System"), including a mass-burn solid waste disposal, resource recovery and electric generation facility (the "Facility") constructed and operated on behalf of the Authority by Covanta Union, Inc. (formerly Ogden Martin Systems of Union, Inc.) (the "Company"); and

WHEREAS, the Authority has heretofore issued various series of long term bonds in order to, among other things, finance and refinance costs of acquisition and construction of the Facility and ancillary facilities, certain recycling and landfill costs, and additional costs of the Facility and other parts of the System; and

WHEREAS, the Authority and the County have determined to refund the outstanding long-term bonds of the Authority as part of a plan of refinancing involving the issuance, in one or more series and under one or more security structures, of (i) long-term bonds of the Authority to be secured by lease payments to be made by the Company in respect to the Facility under a lease agreement to be entered into between the Authority and the Company (the "Lease Agreement Bonds"), and (ii) long-term bonds of the Authority to be secured primarily by certain revenue of the System collected by the Authority (the "System Bonds"); and

WHEREAS, the Authority cannot economically undertake such plan of refinancing unless the Authority is aided and assisted by the County, and the County desires to aid and assist the Authority and to make it economically feasible for the Authority to proceed with such plan of refinancing.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF UNION, NEW JERSEY, AS FOLLOWS:

Section 1. The Board of Chosen Freeholders, as the governing body of the County of Union, New Jersey (the "County"), hereby finds and determines that it will promote the public health and welfare and that it is in the public interest and in the best interests of the County and of the inhabitants thereof to aid and assist the Authority in the exercise and fulfillment of its corporate and statutory purposes, and in the refinancing by the Authority of the long-term bonds of the Authority which financed and refinanced the System, and that it will be economical and otherwise advantageous to the County and the Authority and to the residents and property owners of the County for the County and the Authority to enter into: (i) a County Deficiency Agreement providing for and relating to the disposal of solid waste originating in the territorial area of the County and, as provided in the County's solid waste management plan, solid waste originating outside of Union County by means of the System or any solid waste facilities of the County, and the payment of debt service and other costs relating to System Bonds, and (ii) a Limited Deficiency Agreement providing for and relating to the disposal of solid waste received by (or for the account of) the Authority by means of the System, the payment of certain administrative and operating expenses (including host community fees) of the Authority, the payment of disposal fees payable by the Authority to the Company and the repayment

of withdrawals from the Debt Service Reserve Fund created in the Authority's bond resolution pertaining to the Lease Agreement Bonds. The County Manager is hereby authorized and directed on behalf of the County to execute such County Deficiency Agreement and such Limited Deficiency Agreement under the corporate seal of the County, which shall be affixed and attested by the Clerk of the Board of Chosen Freeholders, and to deliver such agreements to the Authority on behalf of the County.

Section 2. Said County Deficiency Agreement and said Limited Deficiency Agreement, copies of which are attached hereto and by this reference are made a part hereof as if set forth in full herein, are hereby approved. The County Manager is hereby authorized to execute the County Deficiency Agreement and the Limited Deficiency Agreement on behalf of the County in substantially the forms thereof attached hereto, with such changes, variations, omissions and insertions as the County Manager shall approve. The execution thereof by the County Manager shall constitute conclusive evidence of such approval and no further action of the Board of Chosen Freeholders is required.

Section 3. The County Manager, the Clerk of the Board of Chosen Freeholders and any and all other officers and employees of the County are hereby empowered and directed to do such acts and things as may be necessary for the proper performance of the agreements hereinabove set forth and for carrying into effect of all the provisions or matters set forth in this ordinance.

Section 4. The County Manager, the Clerk of the Board of Chosen Freeholders and any and all other officers and employees of the County are hereby empowered and directed, to the extent necessary or desirable, to enter into, execute and deliver in the name of the County and on its behalf, one or more Continuing Disclosure Agreement(s) or other instruments(s) undertaking the secondary market disclosure obligations of the County required by Rule 15c2-12 of the United States Securities and Exchange Commission.

Section 5. Pursuant to the provisions of Section 8 of County Ordinance 246-86, as amended by County Ordinance 261-86, the County hereby consents to the issuance by the Authority of not exceeding \$150,000,000 in aggregate principal amount of Lease Agreement Bonds to be secured by the County pursuant to the Limited Deficiency Agreement and \$75,000,000 in aggregate principal amount of System Bonds to be secured by the County pursuant to the County Deficiency Agreement.

Section 6. The Clerk of the Board of Chosen Freeholders is hereby authorized to publish a notice in the appropriate newspaper of the introduction hereof and of a public hearing on August 25, 2011 and shall forward one certified copy, upon final passage, to each Clerk of all Municipalities located in the County of Union.

Section 7. This ordinance shall take effect at the time and in the manner provided by law.