ORDINANCE OF THE ESSEX COUNTY BOARD OF COUNTY COMMISSIONERS

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

Ordinance No. O-2025-00013

Proposed by:

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

INCLUSION OF THE FOURTH SUPPLEMENTAL AGREEMENT BETWEEN THE ESSEX COUNTY UTILITIES AUTHORITY AND THE PORT AUTHORITY (A GOVERNMENT TO GOVERNMENT AGREEMENT) EXTENDING THE TERMS OF THE WASTE DISPOSAL AGREEMENT FOR DISPOSAL OF APPROXIMATELY 425,000 TONS OF PROCESSIBLE MUNICIPAL AND COMMERCIAL SOLID WASTE TYPE 10, 25 AND 27 AT THE ESSEX COUNTY RESOURCE RECOVERY FACILITY (THE ECRRF), OWNED BY THE PORT AUTHORITY AND MAINTAINED AND OPERATED BY REWORLD ESSEX COMPANY DURING THE ENTIRE EXTENDED TERM OF THE FOURTH SUPPLEMENTAL AGREEMENT FOR THE PERIOD JANUARY 1, 2026 TO DECEMBER 31, 2030, 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 former 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 Port Authority and the ECUA, as implementing agency for the Essex County Solid Waste management Plan and as assignee of the rights, duties and obligations of the County of Essex, New Jersey ("County") with respect to the disposal of all solid waste generated within the geographic boundaries of the County, heretofore and as of the 15th day of July 1999 entered into that certain Waste Disposal Agreement ("WDA") which, as an amendment of that certain Amended and Restated County Service Contract dated as of February 28, 1986. By and between the Port Authority and the County, provides for the disposal of solid waste generated within the County at the Essex County Resource Recovery Facility (the "ECRRF") owned by the Port Authority and operated and maintained by Covanta Energy, as successor to American Ref-Fuel Company of Essex County; and

WHEREAS The Port Authority and the ECUA extended the term of the WDA and otherwise amended the terms of the WDA in certain respects pursuant to those certain government t to government supplemental agreements commencing on February 1, 2010 ("The Supplemental Agreement") and February 1, 2015 (the "Second Supplemental Agreement"); and

WHEREAS in 2021 the Essex County Utilities Authority entered into the four (4) year Government to Government Third Supplemental Agreement with the Port Authority of New York and New Jersey for the disposal of all Essex County Municipal Type 10 Processible Waste at the Resource Recovery Facility (ECRRF) owned by the Port Authority for the period February 1, 2022 until December 31, 2025; and

WHEREAS the Essex County Utilities Authority has advised that the said four (4) year Government to Government Third Supplemental Agreement has been beneficial to all 22 Essex County Municipalities and resulted in reduced tipping fees during that period; and

WHEREAS the Essex County Utilities Authority has advised that the Resource Recovery Facility (ECRRF) located in Newark, New Jersey has been very convenient for Essex County haulers and that the facility has handled the delivery of Processible Solid waste over this period of time in a careful and expeditious manner; and

WHEREAS the Third Supplemental Agreement between the Port Authority and the ECUA will expire on December 31, 2025 and the parties desire to further extend the term of the WDA and to otherwise amend the terms of the WDA in certain respects, by the execution of a certain additional government to government supplemental agreement ("the Fourth Supplemental Agreement"); and

WHEREAS the Authority has further advised that the new Fourth Supplemental Agreement between the Essex County Utilities and the Port Authority will result in the continuation of low Tipping Fees for Essex County municipalities, businesses and haulers for 2026 and thereafter as well as long term certainty as to Type 10 Processible Waste disposal; and

WHEREAS the Essex County Utilities Authority, 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, in accordance with the Fourth Supplemental Agreement, the disposal of approximately 425,000 tons of processible municipal and commercial waste type 10, 25 and 27 generated within Essex County on a yearly basis for the period January 1, 2026 to December 31, 2030 to the Essex County Resource Recovery Facility (ECRRF) in Newark, New Jersey; and

WHEREAS as a result of regulatory waste flow control, the Essex County Utilities Authority, as regulatory agency, in addition to maintaining low tipping fees for its municipal and commercial customers throughout the five-year period of the Fourth Supplemental Agreement, the Authority has been able to continue to substantially reduce its operating expenses; and

WHEREAS the Authority by Resolution 11-24-42 duly adopted on November 19, 2024, approved and authorized the Government to Government Fourth Supplemental Agreement by and between the Authority and the Port Authority for the period January 1, 2026 to December 31, 2030, and further approved the Plan Amendment to the Essex County Solid Waste Management Plan and recommended the Plan Amendment to the Essex County Board of County Commissioners for adoption by Ordinance after Public Hearing in accordance with the Solid Waste Management Act; and

WHEREAS The ECUA, as the regulatory agency for the collection and disposal of all solid waste generated in Essex County has advanced the following additional factors in support of this Plan Amendment:

1. All Essex County municipal processible solid waste has been disposed of at the Essex County Resource Recovery Facility continuously since 1994.

2. The facility has proven over the years to be geographically convenient for Essex County municipal haulers and disposal of solid waste at the facility has been handled in an expeditious manner with consistent reliable availability. The location of the facility in the City of Newark substantially reduces truck traffic. A high percentage of the solid waste is generated by the larger Essex

County municipalities, which are located in close proximity to the E.C.R.R.F. being the City of Newark, City of East Orange, Township of Irvington, City of Orange and Township of Belleville. These five municipalities represent sixty-one percent of the total Essex County population.

3. Throughout the entire term of the four (4) year extension agreement which is about to expire, as in the prior seven (7) year agreement, Essex County has maintained its priority ranking in terms of capacity and priority of delivery of solid waste at the facility.

4. The New Jersey Department of Environmental Protection (NJDEP) previously approved both extensions of the government-to-government contract for the transfer, transportation and disposal of municipal processible solid waste types 10, 25 and 27 generated within Essex County at the ECRRF.

5. The NJDEP has also approved and certified the direction of all municipal processible solid waste types 10, 25 and 27 to the Essex County Resource Recovery Facility (ECRRF) in the City of Newark pursuant to regulatory flow control.

6. The previous extensions with the Port Authority have resulted in very substantial disposal cost savings for all Essex municipalities. The substantial cost savings which will be realized from the new Five (5) year contract extension will allow the ECUA to continue, enlarge and expand its various environmental activities, including a major focus on recycling in Essex County.

7. As a result of this government-to-government extension agreement Essex County municipalities will pay less for processible waste disposal in 2026-2030 than they paid in 2021in accordance with the following schedule:

   i) During the period from and after January 1, 2026, through and including December 31, 2026, the ECUA shall pay Service Charges to the Port Authority for the Disposal Services at the rate of Seventy-Three and 00/00 Dollars ($73.00) per Ton for the non-commercial portion of Acceptable Waste ("Acceptable Municipal Waste") and Eighty-Seven and 00/100 Dollars ($87.00) per Ton for the commercial portion of Acceptable Waste ("Acceptable Commercial Waste").
   (ii) During the period from and after January 1, 2027, through and including December 31, 2027, the ECUA shall pay Service Charges to the Port Authority for the Disposal Services at the rate of Seventy-Four and 00/100 Dollars ($74.00) per Ton Acceptable Municipal Waste and Eighty-Eight and 50/100 Dollars ($88.50) per Ton for Acceptable Commercial Waste".
   (iii) During the period from and after January 1, 2028, through and including December 31, 2028, the ECUA shall pay Service Charges to the Port Authority for the Disposal Services at the rate of Seventy-Five and 00/100

Dollars ($75.00) per Ton for Acceptable Municipal Waste and Ninety and 00/100 Dollars ($90.00) per Ton Acceptable Commercial Waste.
(iv) During the period from and after January 1, 2029, through and including December 31, 2029, the ECUA shall pay Service Charges to the Port Authority for the Disposal Services at the rate of Seventy-Five and 50/100 Dollars ($75.50) per Ton for the Acceptable Municipal Waste and Ninety-One 50/100 Dollars ($91.50) per Ton for Acceptable Commercial Waste.
(v) During the period from and after January 1, 2030, through and including December 31, 2030, the ECUA shall pay Service Charges to the Port Authority for the Disposal Services at the rate of Seventy-Five and 50/100 Dollars ($75.50) per Ton for Acceptable Municipal Waste and Ninety-Three and 00/100 Dollars ($93.00) per Ton Acceptable Commercial Waste.

8. The use of the ECRRF in conformity with existing DEP and EPA emission standards is less harmful to the environment than land filling.

9. Court decisions and more particularly the U.S. Supreme Court have validated a government-to-government contract directing the flow of solid waste to a publicly owned solid waste facility pursuant to regulatory flow control as is contemplated herein.

10. In addition, the New Jersey Department of Environmental Protection has also approved District Solid Waste Management Plan amendments approving regulatory flow control.

WHEREAS the Plan Amendment was approved by the Solid Waste Advisory Council (SWAC) at its meeting of May 27, 2025 Resolution # 1-25.

NOW THEREFORE, BE IT ORDAINED by the Essex County Board of Commissioners 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 the Essex County Resource Recovery Facility in Newark, New Jersey as the County's designated facility for the disposal of approximately 425,000 tons per year of Essex County Municipal and Commercial Processible Solid Waste Types 10, 25 and 27 and inclusion of the Fourth Supplemental Agreement between the Port Authority and the Essex County Utilities Authority for the period January 1, 2026 until December 31, 2030 and for the direction of approximately 425,000 tons per year of Essex County municipal and commercial processible waste to the Essex County Resource Recovery Facility located at 183 Raymond Boulevard, Newark, New Jersey (Block 5—1.01, Lot 5) 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. PLEASE TAKE NOTICE that a Public Hearing will be held by the Essex County Board of County Commissioners on Wednesday, December 2, 2026, at 5:00 p.m. at Hall of Records, Room 506, 465 Sr. Martin Luther King, Jr., Blvd., Newark, NJ 07102, regarding Ordinance No. O-2025-00013, which amends the Essex County District Solid Waste Management Plan.

This Plan Amendment is being coordinated by the Essex County Solid Waste Coordinator, Wayne D. DeFeo whose offices are located in the Leroy F. Smith Public Safety Building 60 Nelson Place, 6th Floor Newark NJ, 07102.

This Plan Amendment and related documents may be reviewed at the offices of the Essex County Utilities Authority located in the Leroy F. Smith Public Safety Building 60 Nelson Place, 6th Floor Newark NJ, 07102 during regular business hours by appointment by contacting wdefeo@defeoassociates.com or calling the Essex County Utilities Authority at 973-792-9060. This Plan Amendment may also be reviewed online at www.ecuanj.com.

4.The Clerk of the Essex County Board of County Commissioners 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.

5. This notice of said public hearing has been posted at least ten (10) days prior to the hearing date on the Essex County Utilities Authority Website at www.ecuanj.com.

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 Essex County Commissioners 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

Approved as to form and legality _____Jerome St. John_____
County Counsel