

RESOLUTION NO. 2022-75

**RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE TOWNSHIP OF FLORENCE AND THE BURLINGTON COUNTY
BOARD OF COMMISSIONERS
CONCERNING THE DISPOSITION OF WASTEWATER
FROM THE BURLINGTON COUNTY RESOURCE RECOVERY COMPLEX**

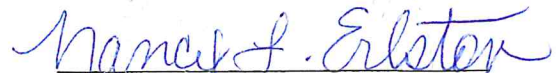
WHEREAS, the Township of Florence and the Burlington County Board of Chosen Freeholders wish to enter into an Agreement concerning the disposition of wastewater generated at the Burlington County Resource Recovery Complex; and

WHEREAS, the Agreement between the Township of Florence and the Board of Chosen Freeholders of the County of Burlington is attached as Schedule "A": Commencing on January 1, 2022 and continuing through December 31, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Florence that the Township of Florence hereby approves the Agreement with the Board of Chosen Freeholders of the County of Burlington: Agreement Concerning the Disposition of Wastewater Generated at the Burlington County Resource Recovery Complex (attached as Schedule "A").

BE IT FURTHER RESOLVED that the Township Administrator and Township Clerk are authorized to execute any and all documents as required for this Agreement.

I, NANCY L. ERLSTON, Clerk of the Township of Florence, County of Burlington, State of New Jersey, do hereby certify that the foregoing Resolution is a true copy of the Resolution approved by Township Council at their March 16, 2022 meeting.


Nancy L. Erlston, RMC
Township Clerk

Note: This Resolution formally approves an Agreement with Burlington County Freeholders.



RESOLUTION 2022-75
"SCHEDULE A"
County of Burlington

Legal Department

49 Rancocas Road, Mount Holly, NJ 08060
P.O. Box 6000, Mount Holly, NJ 08060
(609) 265-5289 • www.co.burlington.nj.us

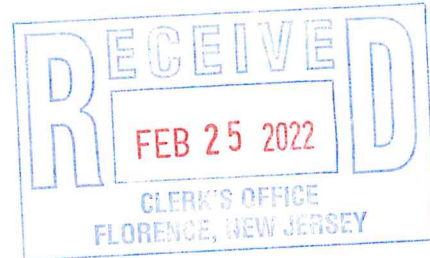
Eve A. Cullinan, County Administrator

**Board of County
Commissioners**

Daniel O'Connell, Director
Tom Pullion, Deputy
Felicia Hopson
Balvir Singh

February 22, 2022

The Township of Florence
711 Broad Street
Florence, NJ 08518



Re: Resolution Number: 2022-00076

Dear Sir or Madam:

Enclosed herewith please find two original copies of an Agreement between your firm and the Board of County Commissioners. Kindly execute, date and return both originals along with any additional required documentation, including insurance certificates, to this office. Please be sure to include the required evidence of Affirmative Action compliance and Business Registration certificates.

Your expeditious response to this request is necessary for implementation of this contract. Please note that the appropriate County officials will not finally execute the agreement and authorize payments until this information is received.

Also enclosed is a copy of Resolution No. 2022-00076 for your files. Thank you for your anticipated cooperation.

Very truly yours,

Ashley H. Buono, Esquire
Burlington County Solicitor

Enclosures



Burlington County Board of Commissioners

49 Rancocas Road, Mount Holly, NJ, 08060
P.O. Box 6000, Mount Holly, NJ, 08060
(609) 265-5020 • www.co.burlington.nj.us

Eve A. Cullinan, County Administrator
Erin M. Kelly, Clerk of the Board

Burlington County Commissioners

Daniel J. O'Connell, Director
Tom Pullion, Deputy
Felicia Hopson
Balvir Singh

AGENDA, REGULAR MEETING, BOARD OF COMMISSIONERS, COUNTY OF BURLINGTON

If you would like to listen and/or participate during the public comment portions of the February 9, 2022 meeting, please see available options below:

By Phone - call 408-418-9388 Access code 2339 343 3317

By Video - please visit our website at www.co.burlington.nj.us

Date: Feb 09, 2022 - 7:00 PM

Location: www.co.burlington.nj.us
VIRTUAL CALL ONLY

Agenda: AUTHORIZATION OF AN AMENDMENT TO RESOLUTION 2021-00751 DATED DECEMBER 29, 2021 FOR THE AUTHORIZATION OF AN AGREEMENT WITH FLORENCE TOWNSHIP FOR THE ACCEPTANCE AND DISPOSAL OF WASTEWATER GENERATED AT THE RESOURCE RECOVERY COMPLEX REDUCING THE TERM TO ONE YEAR FOR THE DEPARTMENT OF SOLID WASTE

Official Resolution#		2022-00076							
Meeting Date		02/09/2022							
Introduced Date		02/09/2022							
Adopted Date		02/09/2022							
Agenda Item		h-22							
CAF #									
Purchase Req. #									
Result		Adopted							
COUNTY COMMISSIONER	PRES.	ABS.	MOVE	SEC	AYE	NAY	ABST.	RECU.	
O'Connell, Director	✓				✓				
Pullion, Deputy	✓		✓		✓				
Hopson	✓				✓				
Singh	✓			✓	✓				

I HEREBY CERTIFY THAT THIS DOCUMENT IS A TRUE, COMPLETE AND ACCURATE COPY OF THIS RESOLUTION, ADOPTED BY THE BOARD MEMBERS OF THE COUNTY OF BURLINGTON, NJ AT THE MEETING REFERENCED THEREON

CLERK OF THE BOARD

2022-00076
2/9/22

**AGREEMENT CONCERNING THE DISPOSITION OF WASTEWATER
GENERATED AT THE BURLINGTON COUNTY RESOURCE RECOVERY COMPLEX**

THIS AGREEMENT is made by and between:

THE TOWNSHIP OF FLORENCE, a body politic and corporation of the State of New Jersey, having administrative offices at 711 Broad Street, Florence, NJ 08518 (hereinafter referred to as the "Township") and

THE BURLINGTON COUNTY BOARD OF COUNTY COMMISSIONERS, a body politic and corporate of the State of New Jersey, having administrative offices at 49 Rancocas Road, Mount Holly, NJ 08060 (hereinafter referred to as the "Board" or "County").

WITNESSETH:

WHEREAS, the Township owns and operates a wastewater treatment facility located at 1500 West Front Street, Florence, New Jersey, generally referred to as the Florence Township Sewerage Treatment Plant (the "STP"); and

WHEREAS, the STP has waste disposal facilities and capabilities; and

WHEREAS, the Burlington County Resource Recovery Complex (the "Complex"), owned by the County, generates wastewater; and

WHEREAS, the County desires to have certain Complex waste treated and disposed of by the Township at its STP; and

WHEREAS, the Township is agreeable to treat and dispose of the waste of the County produced at the Complex in accordance with the terms and conditions contained herein;

NOW, THEREFORE, in consideration of these premises and of the mutual covenants and agreements herein set forth, and of the undertakings of each party to the other, the parties hereto, each binding itself, its successors and assigns, do mutually covenant, promise and agree as follows:

Section 1. GENERAL SCOPE OF THE AGREEMENT

1.1. Definitions.

"Facility" means the STP, the Township's wastewater treatment facility.

"Leachate" means water that passes through a landfill located at the Complex.

“System” means the STP including all sewers, pumping stations, manholes and related property, assets, improvements and equipment comprising the Township’s system for collecting, processing and treating sewage.

“Unacceptable Waste” means:

- Any waste that is hazardous as defined by the United States Environmental Protection Agency (“EPA”), New Jersey Department of Environmental Protection (“DEP”) and/or any other New Jersey State regulatory agency having jurisdiction over wastewater treatment.
- Waste that includes toxic substances, chemical elements or compounds in quantities sufficient to impair the operation or efficiency of the System.
- Waste that contains any substance in sufficient volume to obstruct flow in pipes or otherwise interfere with the proper operation of the System.

“Waste” and “Wastewater” means wastewater generated at the Burlington County Resource Recovery Complex. On the agreement of the parties by addendum executed by both, the type of waste, within the terms of this Agreement, may be revised, modified or expanded.

1.2. The Township’s Commitments. The Township agrees to process and dispose of Waste delivered to the System in accordance with applicable federal and New Jersey law and regulations and any and all permits issued by the DEP for the Facility’s operation.

1.3 The County’s Commitments. The County agrees to deliver its Waste, at no cost to the Township, to the System at the point of connection established on the mutual agreement of the parties. The County will comply with all laws and regulations of the State of New Jersey concerning waste delivered for disposal into the System. The County will pay for the treatment of the Waste in the amount and manner set forth hereinafter.

Section 2. TOWNSHIP’S WARRANTIES, OBLIGATIONS, COMMITMENTS AND RIGHTS.

2.1. Facility’s Operation. The Township warrants that the Facility is being operated in accordance with New Jersey law and regulations and the permit(s) issued to the Township for it.

2.2. Township’s Solely Responsible for the Facility. The Township is responsible for the proper, and lawful operation of the Facility and the maintenance required to keep the Facility operating in accordance with applicable legal and permit requirements. Nothing in this Agreement shall be deemed as imposing any obligation on the County for the Facility’s operation. The Township shall be solely responsible for securing and maintaining any and all permits and authorizations required for the Facility to operate.

2.3. Commitment to Accept. The Township agrees to accept, treat and dispose of the County’s Waste delivered to the Facility during the term of this Agreement and any extension of it.

2.4. Notice to County Concerning System Operations. The Township agrees to give the County notice within one business day after it becomes aware of significant impairment of the System’s capacity to comply with laws, regulations or permit requirements applicable thereto or if it has been

found to be in violation of the parameters of permitted discharges – whether by County, State or other authority. The Township agrees to send a copy of any self-reporting violations and notices of violations to the County. The Township shall also notify the County if it becomes aware that the System will not be able to accept deliveries from the County for more than two business days.

2.5. Right to Sample. The Township shall have the right to sample Waste delivered for any parameter before or during intake at its own cost.

2.6. Right to Inspect. The Township shall have the right to inspect facilities at the Complex where Waste is collected prior to delivery to the Facility.

2.7. Right to Reject. The Township shall have the right to reject a delivery of Waste only if it has reasonable basis to believe that the introduction of the contents may negatively impact the operation of the System.

2.8. Excuse in the Township Performance. The Township shall not be liable for any failure to provide the services that it is to provide pursuant to this Agreement, or for any interruption, or loss or damage resulting therefrom occasioned in whole or in part by any cause or effect that is beyond the reasonable control of the Township (such as war, labor strike, or extreme weather) or that is beyond the reasonable anticipation or control of the Township. The Township shall not be responsible for any interruption or cessation of services due to the action of any governmental agency having jurisdiction over the Township. If the Township is unable to provide the service under the terms of this Agreement because of failure to obtain the necessary approval or licenses from the governmental agencies having jurisdiction over the Township, then this Agreement shall become null and void or, on the agreement of the parties, suspended for such period as they agree.

Section 3. COUNTY'S WARRANTIES, OBLIGATIONS, COMMITMENTS AND RIGHTS.

3.1. Use of Facility Services. The County agrees to use the Facility for its disposal of Waste. Nothing herein is intended or shall be interpreted as requiring that the County use the Facility if the County secures a lower-cost method of disposal that the Township is unwilling to match or if the County determines that use of the Facility presents unacceptable risks of liability to it.

3.2. Permit for Discharge. The County shall be solely responsible for securing and maintaining any and all permits and authorizations required for the discharge of Waste to the Facility and any sampling required thereunder.

3.3. Delivery. The County is responsible for delivering the Waste at its sole cost to the STP or other location established on the agreement of the parties by a tank truck provided with either a gravity discharge or a self-contained pump.

3.4. The County agrees to not knowingly deliver Unacceptable Waste to the Township.

3.5. Spillage. The County shall be responsible for the proper clean up of Waste spillage caused by the County, its hauler or equipment at the County's expense. The clean up shall meet applicable Federal and State requirements and regulations.

3.6. Commitment to Pay. In consideration of the Township's acceptance, treatment and disposal of the Waste by the Township, the County agrees to pay the Township \$0.0171/gallon for the term of this Agreement.

3.7. Computation of Charges. The County and Township agree that charges shall be based on receipts provided upon delivery of the Waste for treatment and disposal. If the County's flowmeter is inoperable, the County agrees that the Township shall be permitted to compute its charges for its services on the basis of a full truckload unless the County is able to demonstrate to the Township's satisfaction, that it can provide the Township with an accurate measure of the Waste delivered for treatment and disposal.

3.8. Billings. The Township shall bill the County not more frequently than monthly for charges properly assessable pursuant to this Agreement. The County agrees to pay the Township for its charges within a reasonable period after receiving a Township billing. Absent extraordinary circumstance, the County shall pay the Township's bill within forty-five (45) days' of its receipt. If the County disputes the accuracy of a billing it shall promptly raise the matter to the Township.

3.9. Effect of Payment. Board approval of or payment for the Township's services shall not constitute nor be deemed to be a release of responsibility and liability of the Township, its officers, employees, associates, agent and consultants for the competency or lawfulness of the manner in which the Township provided its services nor shall such approval or payment therefore be deemed to be an assumption of such responsibility by the Board for any defect in the Township's work or any act or omission by the Township.

3.10. Inspections. The County shall have the right to inspect the System on reasonable advance notice to the Township.

Section 4. TERM AND TERMINATION

4.1. Term of Agreement. This Agreement shall be effective on January 1, 2022 and shall expire on December 31, 2022, unless sooner terminated in accordance with its terms. The Agreement may be renewed for additional periods on the agreement of the parties.

4.2. Services after Agreement Expiration. If the County continues to dispose of the Waste at the Facility and the Township continues to provide its services after this Agreement expires the terms of this Agreement shall continue and be binding on the parties for all services until such time as the parties sign a new Agreement or an extension of this Agreement.

4.3. Termination Consequential to Water Quality Management Plan. Anything contained in this Agreement to the contrary notwithstanding, if the DEP, or any other governmental agency having jurisdiction over the Township or the subject matter of this Agreement, institutes a Water Quality Management Plan or other plan that makes this Agreement unenforceable by its terms, then this Agreement shall terminate within sixty (60) days of implementation of the Plan or other date as may otherwise be required by law or regulation.

4.4. Termination Consequential to Action by Superior Governmental Entity. If an administrative agency, board, commission or division of the State or Federal government or any court materially impairs, alters, restricts or limits, directly or indirectly, the Township's right or authority to provide its

services as set forth in this Agreement, the Township, in its sole discretion reasonably exercised, may terminate and void this Agreement by written notice to the County. The Township shall notify the County of any formal proceedings or order so that the County may participate in such proceedings if it so chooses.

4.5. Termination for Township's Failure to Secure Permits and/or licenses for the System. If the Township is unable to provide services under this Agreement because of failure to obtain the necessary approvals, licenses or permits from the governmental agencies having jurisdiction over the Township, then this Agreement shall become null and void or, on the agreement of the parties, suspended for such period as they agree.

4.6. Unconditional Right to Terminate. Anything in this Agreement to the contrary notwithstanding, the Township shall have the absolute right to terminate this Agreement or suspend deliveries (a) if the Township determines, in its sole and absolute discretion but subject to section 2.2, that it does not have the capacity to treat the Waste to be delivered pursuant to this Agreement, or (b) the Township demonstrates to the County's satisfaction that the treatment of County's Waste caused the Township to violate the permit that governs the Facility and the violation cannot be corrected or remedied despite the Township's good faith efforts (or County's efforts if elements of the County's Waste is causing the violation) to do so. The termination or suspension provided for in this Agreement shall be on not less than forty-five (45) days prior, written notice to County.

Section 5. DEFAULT AND ENFORCEMENT

5.1. Termination for the Township Default. Default by the Township shall mean the persistent and repeated failure of the Township to timely perform any material obligation or to observe any material covenant under the terms of this Agreement, which failure has not been cured within thirty (30) days after the receipt of written notice from the County thereof. On the Township's failure to correct its default the County shall have the right to terminate this Agreement.

5.2. Termination for County Default. County default in its obligations specified in this Agreement shall give the Township the right to terminate this Agreement. So long as the County's performance of its commitments in this Agreement do not endanger or impair the viability of the System the Township shall give the County a reasonable period to cure a default.

Section 6. INDEMNIFICATIONS

6.1. Indemnification by County. The County agrees to indemnify and save the Township harmless from all damages and claims for damages, actual or alleged, suits, recoveries, judgments or executions (including costs, expenses and reasonable attorney's fees) which may be made, had, brought or recovered by reason of injury for and including death resulting therefrom, to any person, or damage to the property of any person, arising out of the County's making and performance of this Agreement; provided that this indemnification shall not apply to any damages and claims for damages that arise from the negligence of the Township, its servants, agents, employees, contractors and subcontractors.

6.2. Indemnification by Township. The Township agrees to indemnify and save the County harmless from all damages and claims for damages, actual or alleged, suits, recoveries, judgments or executions (including costs, expenses and reasonable attorney's fees) which may be made, had,

brought or recovered by reason of injury for and including death resulting therefrom, to any person, or damage to the property of any person, arising out of the Township's making and performance of this Agreement; provided that this indemnification shall not apply to any damages and claims for damages arising from the negligence of the County, its servants, agents, employees, contractors and subcontractors.

Section 7. INSURANCE

7.1. The County's Insurance. The County shall obtain and maintain for the life of the contract the insurance coverages described herein at its own cost and expense and shall require that the contractors delivering the Waste to the Facility obtain and maintain if for the life of their contracts.

A. Commercial general liability insurance or its equivalent for bodily injury, personal injury, and property damage, including loss of use, with minimum limits of:

- | | | |
|-----|--------------------|-------------|
| (a) | each occurrence | \$1,000,000 |
| (b) | products/comp. ops | \$1,000,000 |
| (c) | general aggregate | \$2,000,000 |
| (d) | personal injury | \$1,000,000 |

B. Business auto liability insurance or equivalent with a minimum limit of \$1,000,000 per accident and including coverage for the following:

- (a) liability arising out of the ownership, maintenance or use of any auto; and
- (b) auto non-ownership and hired auto coverage.

C. Worker's compensation insurance or its equivalent with statutory benefits as required by any state or federal law and including employer's liability insurance or its equivalent with minimum limits of:

- (a) \$1,000,000 each accident;
- (b) \$1,000,000 disease each employee; and
- (c) \$1,000,000 disease policy limit.

The County shall provide evidence of the above-described insurance to the Township.

7.2 The Township's Insurance. At its' own cost and expense the Township shall obtain and maintain for the life of the contract, and shall cause its contractors and subcontractors to obtain and maintain for the life of their subcontracts, the insurance coverages described herein:

A. Commercial general liability insurance or its equivalent for bodily injury, personal injury, and property damage, including loss of use, with minimum limits of:

- | | | |
|-----|--------------------|-------------|
| (a) | each occurrence | \$1,000,000 |
| (b) | products/comp. ops | \$1,000,000 |
| (c) | general aggregate | \$2,000,000 |
| (d) | personal injury | \$1,000,000 |

B. Business auto liability insurance or equivalent with a minimum limit of \$1,000,000 per accident and including coverage for the following:

- (a) liability arising out of the ownership, maintenance or use of any auto; and
- (b) auto non-ownership and hired auto coverage.

C. Worker's compensation insurance or its equivalent with statutory benefits as required by any state or federal law and including employer's liability insurance or its equivalent with minimum limits of:

- (a) \$1,000,000 each accident;
- (b) \$1,000,000 disease each employee; and
- (c) \$1,000,000 disease policy limit.

D. Environmental Liability Insurance of \$1,000,000 for each Incident and \$3,000,000 annual aggregate limit.

The Township shall have the County named as an additional insured on its policy for coverages required by this Agreement, and a certificate of insurance evidencing the required insurance shall be filed by the Township with the County's Division of Risk Management.

Section 8. MISCELLANEOUS PROVISIONS.

8.1. Assignment and Subletting. Neither party shall have the right to transfer or assign this agreement to a third party without the other party's prior, written approval. Each party shall provide not less than sixty (60) days prior, written notice to the other party of its desire to assign its obligations under this Agreement.

8.2. Invalidity of Particular Provision. If any term or provision of this Agreement or the application hereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

8.3. Captions and Definitions of Parties. The captions of the Sections and subsections of this Agreement are for convenience only and do not in any way limit or amplify the terms and provisions of this Agreement. The "County" and the pronouns referring thereto, shall mean, where the context so admits or requires, its officers, employees, servants and agents. The "Township" and the pronouns referring thereto, shall mean, where the context so admits or requires, its officers, employees, servants and agents. Any pronoun shall be read in the singular or plural and in such gender as the context may require.

8.4. Persons Bound. Except as otherwise provided in this Agreement, the terms and provisions of this Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

8.5. Governing Law. All matters pertaining to this agreement (including its interpretation, application, validity, performance and breach) in whatever jurisdiction action may be brought, shall be governed by, construed and enforced in accordance with the laws of the State of New Jersey.

8.6. Resolution of Disputes. The parties herein waive trial by jury and agree to submit to the personal jurisdiction and venue of the Superior Court of New Jersey, Burlington County vicinage.

8.7. Nondiscrimination in practice. The County and Township acknowledge that each is obligated to comply with federal and New Jersey State laws and regulations prohibiting discrimination.

8.8. Conflict of Interest Certification. By execution of this Agreement the Township certifies that in performing services pursuant to this Agreement the Township knows of no circumstance that would constitute a conflict of interest, financial or otherwise, between the Township or its principals or members with the interest of the County of Burlington in general. The Township further certifies that it knows of no circumstance or relationship between the Township or its principals and third parties that would cause the actual or appearance of a conflict of interest or a compromise of judgment and independence in the performance of the designated services. The Township acknowledges this is a continuing certification, which shall remain in effect for the term of this Agreement.

8.9. Certification Concerning Contract Award. The Township hereby affirms that no person has made or agreed to make on the Township's behalf any valuable gift, whether in the form of service, loan, thing, or promise to any person or any of the person's immediate family, having the duty to recommend, the right to vote upon or have any other direct influence on the selection of the Township as a contractor for the County within the two years preceding execution of this Agreement.

8.10. Changes to Contract. This Agreement may be modified only by a written document executed by both the County and the Township.

8.11. The waiver of a breach of any provision of this Agreement by either party shall not operate or be construed as a waiver of any subsequent breach. Failure of a party to declare the other in breach of this Agreement shall not operate or be deemed to be a waiver thereof.

IN WITNESS WHEREOF, the Township and the County have caused these presents to be signed by their respective officers duly authorized, and this Agreement to be dated as of the date written.

TOWNSHIP OF FLORENCE

By: 
Signature

STEPHEN FAZELAS
Signer's typed/printed Name

ADMINISTRATOR
Title

3/17/22
Date

Attest:

By: _____
Signature

Signer's typed/printed Name

Title

Date

BURLINGTON COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____
Eve A. Cullinan, County Administrator

Date