

**TOWN OF NORTH HEMPSTEAD
SOLID WASTE MANAGEMENT AUTHORITY
AGENDA**



October 8, 2020

7:00 PM

PUBLIC HEARINGS:

1. A PUBLIC HEARING PURSUANT TO SECTION 120-W OF THE NEW YORK GENERAL MUNICIPAL LAW TO CONSIDER THE AWARD OF AN AGREEMENT FOR TRANSPORTATION AND DISPOSAL OF SOLID WASTE FROM THE NORTH HEMPSTEAD TRANSFER STATION.

Synopsis: The purpose of the public hearing is to consider the award of an agreement to Covanta Sustainable Solutions LLC for the transportation and disposal of residential and commercial solid waste from the North Hempstead Transfer Station, pursuant to a Request for Proposals issued by the Authority.

RESOLUTIONS:

2. A RESOLUTION SETTING A DATE FOR A SPECIAL MEETING OF THE BOARD OF THE TOWN OF NORTH HEMPSTEAD SOLID WASTE MANAGEMENT AUTHORITY FOR OCTOBER 29, 2020.
3. A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO AN AGREEMENT WITH D&B ENGINEERS & ARCHITECTS, PC IN CONNECTION WITH THE REPURPOSING OF THE DECOMMISSIONED LEACHATE TREATMENT FACILITY AT THE AUTHORITY ADMINISTRATION BUILDING, PORT WASHINGTON, NEW YORK, SWMA PROJECT NO. TNH203-2018.

Chairperson Bosworth offered the following resolution and moved its adoption, which resolution was declared adopted after a poll of the members of this Board:

RESOLUTION NO. s27- 2020

A PUBLIC HEARING PURSUANT TO SECTION 120-W OF THE NEW YORK GENERAL MUNICIPAL LAW TO CONSIDER THE AWARD OF AN AGREEMENT FOR TRANSPORTATION AND DISPOSAL OF SOLID WASTE FROM THE NORTH HEMPSTEAD TRANSFER STATION.

WHEREAS, the Town of North Hempstead Solid Waste Management Authority (the “Authority”) currently transports commercial and residential municipal solid waste from the North Hempstead Transfer Station, 999 West Shore Road, Port Washington, New York (the “Transfer Station”) and disposes of such waste at a landfill in Waterloo, New York through a contract between the Authority and Seneca Meadows, Inc. (the “Present Contract”); and

WHEREAS, the Present Contract is due to expire as of December 31, 2020, requiring the Authority to procure a new contract for the removal of commercial and residential municipal solid waste from the Transfer Station and transportation of such waste to a disposal point (the “Required Services”), and

WHEREAS, pursuant to the authority granted under Section 120-w of the New York General Municipal Law, the Authority released for public comment a draft of a request for proposals for the Required Services on February 12, 2020; and

WHEREAS, following the receipt of comments in response of the draft request for proposals and the consideration of such comments for the time period required by Section 120-w, the Authority released findings in response to the comments as well as a Final Request for Proposals for Solid Waste Transportation and Disposal, SWMA Project No. SWMA-0003-2020 (the “RFP”) on May 13, 2020; and

WHEREAS, having conducted a meeting of potential proposers and issued four (4) amendments to the RFP, the Town receive four (4) proposals in response to the RFP on before July 15, 2020, the due date for proposals, from Covanta Sustainable Solutions, LLC (“Covanta”), Seneca Meadows, Inc. (“Seneca”), Tully Environmental, Inc. (“Tully”) and West End Waste Services, Inc. (“West End”); and

WHEREAS, a scoring committee composed of personnel of the Authority and the Town of North Hempstead was formed to review the proposals;

WHEREAS, having reviewed the proposals, and having requested and received additional information from Covanta concerning their proposals, the scoring committee scored the proposals and determined that Covanta’s proposed scored the highest; and

WHEREAS, the scoring committee subsequently recommended that the Authority enter into an agreement with Covanta to provide the Required Services, for the following reasons:

1. Covanta was determined to be a well qualified as a service provider, having provided and continuing to provide the requested services for a number of municipalities in the northeast region, including Long Island and New York City.
2. When considering the cost of installing and maintaining balers at the Transfer Station, it was determined that Covanta provided the overall lowest cost proposal to the Authority. The installation of balers and resulting changes to Transfer Station operations, as estimated by the Lockwood, Kessler and Bartlett’s 2019 Transfer Station evaluation, would cost the Authority an additional approximately \$8,042,352.46 over the 15 year term of the agreement. Adding this estimate to the next lowest cost proposer (West End) would make the cost of contracting with West End, even when flatbedding baled waste, more expensive than Covanta’s cost proposal. In addition, Covanta has the ability to accept waste directly hauled from collection routes to its Hempstead facility, with may further reduce costs to the Authority and collection districts. No other proposer, due to the location of their disposal facilities, proposed this solution.
3. Covanta’s plan of service involves transporting waste to its nearby Hempstead waste-to-energy facility, rather than hauling waste great distances to be landfilled. The committee determined that this reduces transportation costs, reduces the likelihood of service disruptions resulting from inclement weather and traffic conditions in areas outside Long Island, and provides for greater logistical flexibility in loading waste at the Transfer Station and retrieving loaded trailers for disposal from the Transfer Station to be delivered to the Hempstead plant.
4. Covanta is a large organization with various local disposal facilities and a very large and stable financial and corporate backing. The only other proposer with a similar backing is Seneca (through its parent, Waste Connections), though Seneca does not offer local disposal facilities. Tully, though financially healthy, does not have this same large corporate backing. West End is a new company with few assets to its name, and no other corporate backing.
5. The committee determined that Covanta has a satisfactory record of environmental regulatory compliance. Though the committee was aware of litigation in which Covanta’s parent is the named defendant regarding (amongst other things) the handling of ash at its Hempstead waste-to-energy facility, the committee understood that this litigation is ongoing (and has been ongoing for a number of years) and that Covanta’s position is that the claims are without merit. In addition, though not a scoring consideration in the RFP, the committee did take notice of Covanta’s argument that processing waste in a waste-to-energy plant produces less greenhouse gas emissions than landfilling waste, furthering the purposes of the Climate Leadership and Community Protection Act.

WHEREAS, based on the recommendation of the scoring committee, the Authority proceeded to negotiate an agreement with Covanta to provide the Required Services (the “Hauling and Disposal Agreement”); and

WHEREAS, the proposed Hauling and Disposal Agreement, a copy of which has been provided to this Board, would commence January 1, 2021 and continue for a five (5) year period ending December 31, 2025, with two (2) renewal periods of five (5) years each at the Authority’s option, and would require Covanta to provide the Required Services in accordance with the terms and conditions of the Hauling and Disposal Agreement in consideration of the following payments:

<u>Term</u>	<u>Disposal Fee Per Ton</u>
January 1, 2021 – December 31, 2021	\$82.00
January 1, 2022 – December 31, 2022	\$83.44
January 1, 2023 – December 31, 2023	\$84.90
January 1, 2024 – December 31, 2024	\$86.38
January 1, 2025 – December 31, 2025	\$87.89

January 1, 2026 – December 31, 2026 (If Renewed)	Note 1
January 1, 2027 – December 31, 2027 (If Renewed)	Note 1
January 1, 2028 – December 31, 2028 (If Renewed)	Note 1
January 1, 2029 – December 31, 2029 (If Renewed)	Note 1
January 1, 2030 – December 31, 2030 (If Renewed)	Note 1
January 1, 2031 – December 31, 2031 (If Renewed)	Note 2
January 1, 2032 – December 31, 2032 (If Renewed)	Note 2
January 1, 2033 – December 31, 2033 (If Renewed)	Note 2
January 1, 2034 – December 31, 2034 (If Renewed)	Note 2
January 1, 2035 – December 31, 2035 (If Renewed)	Note 2
<u>Note 1</u> – Disposal Fee for this year shall be the disposal fee for the previous year multiplied by 1.025. <u>Note 2</u> - Disposal Fee for this year shall be the disposal fee for the previous year multiplied by 1.034.	

; and

WHEREAS, this Board desires to adopt the determinations made by the scoring committee and find that the Authority’s requirements are met by the award of the Hauling and Disposal Agreement to Covanta and that such an award is in the public interest (the “Adoption and Finding”); and

WHEREAS, pursuant to the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations (the “SEQRA Regulations”), on December 15, 2008, the Town Board of the Town of North Hempstead (the “Town Board”), through the action of the Planning Department pursuant to Town Code Section 20-4, established itself lead agency and determined that the reinstatement of the Town’s policy of “flow control” whereby all waste generated within the Town be transported to the Authority’s Transfer Station would not have a significant environmental impact (the “Previous SEQRA Determination”); and

WHEREAS, the Previous SEQRA Determination made no distinction between the transportation of waste to a distant landfill versus a nearby waste-to-energy plant; and

WHEREAS, the Board has reviewed the determination of the Authority, dated October 8, 2020, and the Negative Declaration indicating that the proposed award of the Hauling and Disposal Agreement to Covanta (the “Proposed Action”) constitutes an “unlisted action” pursuant to Section 617.2 (ak) of the SEQRA Regulations which will not result in any significant adverse impacts on the environment based upon the analysis set forth in the Short Environmental Assessment Form (the “SEAF”) Parts 1 and 2 (the “Determinations and Negative Declaration”) for the reasons that the Proposed Action will not (1) create a material conflict with an adopted land use plan or zoning regulations; (2) result in a change in the use or intensity of use of land; (3) impair the character or quality of the existing community; (4) have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area; (5) result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway; (6) cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities; (7) impact existing public or private water supplies or wastewater treatment utilities; (8) impair the character or quality of important historic, archaeological, architectural or aesthetic resources; (9) result in an adverse change to natural resources; (10) result in an increase in the potential for erosion, flooding or drainage problems; or (11) create a hazard to environmental

resources or human health; and more specifically since no additional waste will be disposed of at, or transported from, the Transfer Station, and that no additional trucks will be required to transport waste from the Transfer Station and that waste would be transported only ten (10) miles from the Transfer Station (as opposed to the current practice of disposing of waste approximately 280 miles from the Transfer Station); and

WHEREAS, with regard to the Proposed Action, this Board desires to designate itself “Lead Agency” pursuant to SEQRA and the SEQRA Regulations and determine, based on the SEAF, that the proposed award would not have any significant adverse effect on the environment (the “SEQRA Determination”); and

WHEREAS, though Covanta’s proposal provided for the lowest cost proposal when taking into account that its plan of service and cost proposal obviated the need to spend taxpayer dollars on waste baling infrastructure and management at the Transfer Station (activities that would have needed to take place and money that would have been spent in order to cost-effectively transport waste over long distances to landfills), West End’s proposal could be seen as providing the lowest cost proposal when not considering the costs of installing and managing a waste baling operation; and

WHEREAS, as this is the case, Section 120-w arguably requires that this Board conduct a public hearing prior to awarding the Hauling and Disposal Agreement to Covanta; and

WHEREAS, pursuant to Resolution No. s8-2020, duly adopted by this Board on September 24, 2020, this Board has previously a date for a public hearing to consider the award of the Hauling and Disposal Agreement to Covanta for October 8, 2020; and

WHEREAS, having conducted the public hearing on October 8, 2020, this Board desires to make the Adoption and Findings described above, adopt to the Previous SEQRA Determination, make the Amended Determination and award the Hauling and Disposal Agreement to Covanta.

NOW, THEREFORE, BE IT

RESOLVED that the Board of the Authority declares itself “lead agency” under the SEQRA Regulations for the actions proposed in this Resolution; and be it further

RESOLVED that this Board hereby adopts the Determination and Negative Declaration, finding that the Proposed Action will not result in any significant adverse environmental impact, based on the analysis set forth in the SEAF, and upon the testimony and reports adduced at this meeting; and be it further

RESOLVED that this Board hereby authorizes the Executive Director to prepare, file, and distribute such documents as may be required pursuant to Section 617.12 of the SEQRA Regulations to effectuate the foregoing determinations and findings made pursuant to the SEQRA Regulations; and be it further

RESOLVED that this Board makes the Adoption and Findings set forth above; and be it further

RESOLVED that this Board hereby awards the Hauling and Disposal Agreement to Covanta; and be it further

RESOLVED that the Chair of the Board of the Authority be and is hereby authorized to execute on behalf of the Authority, the Hauling and Disposal Agreement, a copy of which is on file with the Secretary of the Authority; and

RESOLVED that the Office of the Town Attorney, as Counsel to the Authority, be and is hereby authorized to supervise the execution of the Hauling and Disposal Agreement; and be it further

RESOLVED that the Chair of the Board of the Authority and the Executive Director of the Authority is authorized to take such other action as may be necessary to effectuate the foregoing; and be it further

RESOLVED that the validity of the Hauling and Disposal Agreement and the procedures relating to its award may only be contested if (1) such action, suit or proceeding is commenced within sixty (60) days after the date of publication of the notice below; and (2) such award or procedure was not authorized pursuant to this section; or (3) any of the provisions of New York General Municipal Law Section 120-w which should be complied with at the date of the publication of the below notice have not been substantially complied with; or (4) a conflict of interest can be shown in the manner in which the Hauling and Disposal Agreement was awarded; and be it further

RESOLVED in accordance with Section 120-w, that the Secretary of the Authority, as the clerk of the Authority, be and hereby is authorized and directed to publish a Notice of Hearing as required by Section 120-w, which notice shall be in the following form:

NOTICE OF AWARD

On October 8, 2020, the Town of North Hempstead Solid Waste Management Authority awarded a contract to Covanta Sustainable Solutions LLC pursuant to section one hundred twenty-w of the general municipal law for the transportation and disposal of solid waste from the North Hempstead Transfer Station, Port Washington, New York. The validity of this contract or the procedures which led to its award may be hereafter contested only by action, suit or proceeding commenced within sixty days after the date of this notice and only upon the ground or grounds that: (1) such award or procedure was not authorized pursuant to that section, or (2) any of the provisions of that section which should be complied with at the date of this publication have not been substantially complied with, or (3) a conflict of interest can be shown in the manner in which the contract was awarded; or by action, suit or proceeding commenced on the grounds that such contract was awarded in violation of the provisions of the Constitution

Dated: October 8, 2020

Michael J. Kelly, Secretary of the Board of the Authority

Dated: Manhasset, New York

October 8, 2020

The vote on the foregoing resolution was recorded as follows:

Ayes: Chairperson Bosworth, Member Dalimonte, Member Ferrara, Member Lurvey, Member Russell, Member Seeman, Member Zuckerman

Nays: None

cc: Counsel to the Authority SWMA

Chairperson Bosworth offered the following resolution and moved its adoption, which resolution was declared adopted after a poll of the members of this Board:

RESOLUTION NO. s28 - 2020

A RESOLUTION SETTING A DATE FOR A SPECIAL MEETING OF THE BOARD OF THE TOWN OF NORTH HEMPSTEAD SOLID WASTE MANAGEMENT AUTHORITY FOR OCTOBER 29, 2020.

WHEREAS, the Board of the Town of North Hempstead Solid Waste Management Authority (the “Authority”) desires to set a Special Meeting of the Board of the Authority to consider the adoption of the Authority’s 2021 budget and to consider any other matters that may come before the Board.

NOW, THEREFORE, BE IT

RESOLVED that a Special Meeting of the Board of the Authority shall be held via Zoom on October 29, 2020 at 7:00 p.m. to consider the approval of the Authority’s 2021 budget and to consider any other matters that may come before the Board; and be it further

RESOLVED that the Town Clerk be and hereby is authorized and directed to publish a notice of such Special Meeting, which notice shall be in substantially the following form:

NOTICE OF SPECIAL MEETING

PLEASE TAKE NOTICE, that effective immediately and based upon notices and health advisories issued by Federal, State and Local officials related to the COVID-19 virus, the Town Board of the Town of North Hempstead will not be holding in-person hearings. Until further notice, all future Town Board hearings and meetings will be held via videoconferencing, as permitted by the NYS Open Meetings Law. Due to public health and safety concerns, Town Board room will not be open to the public and there will be no in-person access to the hearing. The meeting will be broadcast live on the Town's website beginning at its regularly scheduled time at 7 P.M. Residents who are interested in viewing the meetings can visit: northhempsteadny.gov/townboardlive. If a resident has a comment related to an item on the agenda, they can email: comments@northhempsteadny.gov. Written comments must be received 60 minutes prior to the meeting. Those wishing to comment via Zoom regarding an item on the agenda, should visit northhempsteadny.gov/townboardlive on the day of the meeting. There will be a Zoom link available for this 30 minutes prior to the start of the meeting.

PLEASE TAKE NOTICE that a Special Meeting of the Board of the Town of North Hempstead Solid Waste Management Authority will be held on October 29, 2020 at 7:00 p.m. via Zoom, to consider the approval of the Authority’s 2021 budget and to consider any other matters that may come before the Board.

Dated: Manhasset, New York

October 8, 2020

**BY ORDER OF THE BOARD OF THE
TOWN OF NORTH HEMPSTEAD
SOLID WASTE MANAGEMENT AUTHORITY**

Dated: Manhasset, New York

October 8, 2020

The vote on the foregoing resolution was recorded as follows:

Ayes: Chairperson Bosworth, Member Dalimonte, Member Ferrara, Member Lurvey, Member Russell,
Member Seeman, Member Zuckerman

Nays: None

cc: Town Attorney Town Clerk

Chairperson Bosworth offered the following resolution and moved its adoption, which resolution was declared adopted after a poll of the members of this Board:

RESOLUTION NO. s29 - 2020

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO AN AGREEMENT WITH D&B ENGINEERS & ARCHITECTS, PC IN CONNECTION WITH THE REPURPOSING OF THE DECOMMISSIONED LEACHATE TREATMENT FACILITY AT THE AUTHORITY ADMINISTRATION BUILDING, PORT WASHINGTON, NEW YORK, SWMA PROJECT NO. TNH203-2018.

WHEREAS, pursuant to a resolution, duly adopted by this Board, the Town of North Hempstead Solid Waste Management Authority (the “Authority”) entered into an agreement with D&B Engineers and Architects, PC, 330 Crossways Parkway, Woodbury, New York 11797 (the “Contractor”), related to the Dismantling, Reconstruction and Repurposing of the Decommissioned and Obsolete Portions of the Solid Waste Management Authority’s Leachate Management System (the “Original Agreement”); and

WHEREAS, the Executive Director of the Authority (the “Executive Director”) has recommended that the Authority amend the Original Agreement to reduce the scope of the agreement in order to eliminate the services for converting the leachate area at the Authority’s Administration Building into a minor motor repair shop, thereby decreasing the fee owed to the Contractor by Twenty Six Thousand Two Hundred Ninety and 09/100 Dollars (\$26,290.09) for a reduced contract payment in an amount not to exceed Eighty Five Thousand Seven Hundred Nine and 91/100 Dollars (\$85,709.91) (the “Amendment”); and

WHEREAS, this Board finds it in the best interests of the Authority to authorize the Amendment.

NOW, THEREFORE, BE IT

RESOLVED that the Amendment be and hereby is authorized; and be it further

RESOLVED the Chair of the Board of the Authority is authorized and directed to execute, on behalf of the Authority, the Amendment, and to take such other action as may be necessary to effectuate the foregoing; and be it further

RESOLVED that the Office of the Town Attorney, as counsel to the Authority, be and hereby is authorized and directed to negotiate and supervise the execution of the Amendment; and be it further

RESOLVED that the Treasurer or Assistant Treasurer be and hereby is authorized and directed to pay the reduced costs associated with the Amendment upon receipt of a duly executed Amendment and certified claims therefor.

Dated: Manhasset, New York

October 8, 2020

The vote on the foregoing resolution was recorded as follows:

Ayes: Chairperson Bosworth, Member Dalimonte, Member Ferrara, Member Lurvey, Member Russell, Member Seeman, Member Zuckerman

Nays: None

cc: Counsel to the Authority Assistant Treasurer