



## Legislation Text

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**File #:** 17-1264, **Version:** 1

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**Dept/ Agency:** Economic and Housing Development

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Type of Service:** Resolution Endorsing

**Purpose:** Endorsement to the Essex County Utilities Authority Supporting a Capacity Increase Application

**Additional Information:**

Lemcor, Inc., and JAMM Realty Holdings, LLC.

170 Frelinghuysen Avenue, Newark, New Jersey 07102

List of Properties subject to agreement:

170-172 Frelinghuysen Avenue/Block 2780/Lot 28/South Ward

174-180 Frelinghuysen Avenue/Block 2755/Lot 1/South Ward

221-243 Foundry Street/Block 5005/Lot 1.02/East Ward

275-279 Avenue P/Block 5005/Lot 15/East Ward

**WHEREAS**, the purpose of this resolution is to authorize the execution of an Agreement Regarding an Endorsement to the Essex County Utilities Authority Supporting a Certain Capacity Increase Application involving the real properties located at Block 2780, Lot 28 and Block 2755, Lot 1, more commonly known as 170-172 and 174-180 Frelinghuysen Avenue, respectively; and

**WHEREAS**, JAMM Realty Holdings, LLC ("Jamm") is the contract purchaser of the real properties located at 221-243 Foundry Street, Block 5005, Lot 1.02 and 275-279 Avenue P, Block 5005, Lot 15, on the tax map of the City of Newark (the "Foundry Street Parcel"); and

**WHEREAS**, following its acquisition of the Foundry Street Parcel, Jamm intended to ground lease the Foundry Street Parcel to Lemcor, Inc. ("Lemcor"), an affiliate of Jamm, for the construction and operation of a solid waste transfer station/materials recovery facility ("TS/MRF") at that location; and

**WHEREAS**, Lemcor is the holder of a Solid Waste Facility permit issued by the New Jersey Department of Environmental Protection (the "Department") to erect and operate a TS/MRF at the Foundry Street Parcel (the "Foundry Street Permit") which such permit is currently in the process of being renewed by Lemcor, as the conveyance of the Foundry Street Parcel to Jamm has not yet occurred; and

**WHEREAS**, a public hearing in connection with Lemcor's application to the Department to renew the Foundry Street Permit was held on January 17, 2017 at which time, numerous concerns and objections to the construction and operation of a TS/MRF at the Foundry Street Parcel were voiced by certain organizations as well as members of the local community; and

**WHEREAS**, thereafter, the City engaged in discussions with Jamm and Lemcor and it was

agreed that Lemcor would essentially relinquish the Foundry Street Permit by abandoning the application to renew it, under certain circumstances which would ultimately not only address the needs of the thriving business but also, substantially advance the redevelopment and reinvigoration of the City, and Jamm would otherwise develop the Foundry Street Parcel for an alternate use in accordance with applicable laws, rules and regulations; and

**WHEREAS**, Lemcor currently operates a TS/MRF upon the real properties located at 170-172 and 174-180 Frelinghuysen Avenue (the "Frelinghuysen Facility") which is currently permitted to accept up to 3,150 tons of materials per week, not to exceed 630 tons per in any given day, of solid waste types that includes municipal solid waste, construction and demolition waste, bulky waste, dry industrial waste, nonhazardous liquids and/or recyclable materials, twenty-four hours per day, seven days per week. (the "Frelinghuysen Permit"). The Frelinghuysen Facility is included in the Essex County Solid Waste Management Plan inclusive of the aforementioned regulated waste types, capacity, operating days and hours; and

**WHEREAS**, in order to utilize the potential capacity of the Frelinghuysen Facility, and to compensate for relinquishing the ability to operate a TS/MRF upon the Foundry Street Parcel, Lemcor intends to seek a modification of the Frelinghuysen Permit to increase the permitted capacity to be received by the Frelinghuysen Facility from 630 tons per day to 870 tons per day (the "Capacity Increase Application"); and

**WHEREAS**, pursuant to N.J.A.C. 7:26-6.10, the Capacity Increase Application will require an amendment to the Essex County Solid Waste Management Plan and in order for the Essex County Freeholders and the Essex County Utilities Authority ("ECUA") to approve such an amendment, an endorsement from the host municipality supporting the application (the "Endorsement") is required; and

**WHEREAS**, the City wishes to memorialize its understanding with Jamm and Lemcor regarding the Foundry Street Parcel and more particularly, Jamm's relinquishment of the Foundry Street Permit, as well as the Frelinghuysen Facility and the City's support of the Capacity Increase Application by providing a written endorsement by entering into an Agreement regarding same in substantially the form attached hereto.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Mayor and/or his designee and the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to enter into an Agreement Regarding an Endorsement to the Essex County Utilities Authority Supporting a Certain Capacity Increase Application in substantially the form attached hereto with Lemcor, Inc. and Jamm Realty Holdings, LLC, both having an address of 170 Frelinghuysen Avenue, Newark, New Jersey 07102.

2. The Mayor and/or his designee and the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to execute an Endorsement to the Essex County Utilities Authority in substantially the form attached to the Agreement consenting to the Capacity Increase Application, all in forms which shall be subject to the approval of the City of Newark Acting Corporation Counsel.

3. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to effectuate certain business terms and conditions related to the Agreement and/or the Endorsement which may be appropriate and necessary.

4. Lemcor and Jamm shall have thirty (30) days from the date this resolution is certified by the Office of the City Clerk to execute the attached Agreement and return same to the Department of Economic and Housing Development. Should Lemcor or Jamm fail to execute and return the attached Agreement within this thirty (30) day time period, the authorization provided by this resolution shall be null and void, unless the Deputy Mayor/Director of the Department of Economic and Housing Development agrees in writing to extend this thirty (30) day time period.

5. The Deputy Mayor/Director of the Department of Economic and Housing Development shall place a copy of the executed Agreement and the Endorsement, as applicable, and all such other executed documents and agreements authorized by this resolution on file in the Office of the City Clerk.

6. This resolution shall take effect immediately.

### **STATEMENT**

This Resolution authorizes the Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development, to enter into an Agreement Regarding an Endorsement to the Essex County Utilities Authority Supporting a Certain Capacity Increase Application and Endorsement involving the real properties located at Block 2780, Lot 28 and Block 2755, Lot 1, more commonly known as 170-172 and 174-180 Frelinghuysen Avenue; and Block 5005, Lot 1.02 and Block 5005, Lot 15, more commonly known as 221-243 Foundry Street and 275-279 Avenue P respectively, in substantially the form attached hereto.