

THIS CONTRACT, made this 29th day of September 2017, between

THE BOROUGH OF MOONACHIE
a Municipal Corporation of the State of New Jersey:
hereinafter referred to as "Borough"

- and -

JOSEPH SMENTKOWSKI, INC.
With its principal offices at
160 James Avenue
Jersey City, NJ 07306
hereinafter referred to as "Contractor"

WITNESSET:

WHEREAS, the Borough pursuant to the Public Contract Law of the State of New Jersey desires to engage the Contractor for the purpose of SOLID WASTE COLLECTION SERVICE; and

WHEREAS, the Borough has heretofore duly advertised for bids for goods and services contracted for herein; and

WHEREAS, the Contractor has filed with the Borough its bid and proposal in writing in response to said advertising; and

WHEREAS, the Borough has accepted the Contractor's bid as the lowest responsible bid submitted, and by Resolution awarded the Contract to the Contractor herein, all pursuant to law; and

WHEREAS, the Borough desires that the scope of services to be performed by Contractor as well as the compensation to be paid to said Contractor be memorialized in a written document pursuant to law; and

WHEREAS, the Contractor is not compensated by appropriation through the General Salary Ordinance of the Borough of Moonachie;

NOW, THEREFORE, the parties do mutually agree as follows:

1. The Contractor shall furnish services and materials necessary to complete the scope of work specified in Bid Specifications including but not limited to the Attachments of the Bid Specifications for furnishing of a SOLID WASTE COLLECTION SERVICE from October 1, 2017 through September 30, 2020 of each contract year as per the Contract Specifications for SOLID WASTE COLLECTION SERVICE (Paragraph 6.8.5, Option #6, Borough pays tipping fees as per bid specification). The Contractor will contract to do all the work and furnish all the materials, labor, equipment, etc. necessary to carry out the intent of the Specifications in the Bid Specifications as described below for the period commencing on October 1, 2017 and terminating September 30, 2020. The Contractor will collect solid waste twice per week from residential and municipal sources. This pattern will repeat through September 30th, 2020. In consideration for said services the Borough agrees to pay the sum of Three Hundred Fifty-Four Thousand Nine Hundred Ninety Dollars (\$354,990.00) Dollars for a three (3) year Contract with a payment of One Hundred Eighteen Thousand Three Hundred Thirty Dollars (\$118,330.00) Dollars) per year subject to funds availability. Payments to the Contractor shall be made in accordance with the Bid Specifications (#5.13) attached hereto and made part hereof (i.e. in equal calendar monthly payments of Nine Thousand Eight Hundred Sixty Dollars and Eight-Three cents \$9,860.83 for thirty-six months). The cost set forth herein above may be

may be modified in accordance with the Bid Specifications attached hereto. In no event shall such cost modifications conflict with any provision of State Law. This amount shall be the cost to the Borough under the terms of the Contract and includes but not be responsible to pay any further amount to the Contractor for any costs or increases in cost.

2. The work and service contracted for herein shall be provided to the Borough in accordance with the commencement date set forth in the Specifications attached hereto and made a part hereof. This contract will commence on October 1, 2017, and terminate on September 30, 2020.
3. The work pursuant to this contract shall be performed and all payments be made in accordance with the specifications for "BOROUGH OF MOONACHIE SOLID WASTE COLLECTION SERVICE" within the Borough of Moonachie, County, of Bergen, State of New Jersey. Said Specifications are annexed hereto and made a part hereof as Schedule "A." In the event, that there is any conflict between the terms of this Contract and the Specifications which are made a part of this Contract, then and in that event, the terms and provisions of this Contract shall supersede the terms and provisions contained in the said documents. This subparagraph is in no manner intended to modify the price details and goods, supplies and service requirements of the Bid Specifications.
4. The Contractor agrees to make payment of all proper charges for labor or materials required in the performance of the Proposal aforesaid, and hereby agrees to indemnify, defend and save harmless the Borough, its officers, agents and servants against and from

all damages to which the Borough of any of its officers, agents or servants may be put, by reason of injury to the person or property of others, resulting from carelessness in the performance of said Contract or through the negligence of the Contractor or through any improper or defective machinery, implements, materials, or appliances used or supplied by the Contractor in the execution of this Contract or through any act or omission on the part of the Contractor, its agents or servant.

5. The Contractor expressly represents and warrants that he has complied with all the requirements concerning insurance and surety obligations contained in the Specifications.
6. This Contract shall be binding on the Borough, its successors or assigns and upon the Contractor, its successors or assigns (except that this provision shall not create any right in the Contractor to assign This Contract otherwise than as provided in the Specifications).
7. Modification or waiver of any of the provisions of this contract shall be effective only if made in writing, and executed with the same formality as this contract. The failure of either party to insist upon strict performance of any of the provisions of this contract shall not be construed as a waiver of any subsequent default of the same or similar nature.
8. The parties to this Contract agree to incorporate into this contract the Mandatory Affirmative Action Language of Subsection 3.4(a) of the Regulations promulgated by the Treasurer pursuant to P.L.1975, c.127, as and supplemented from time to time, and the Contractor or Subcontractor agrees to comply fully with the terms, provisions and obligations of said Subsection 3.4(a) provided that said Subsection shall be applied

subject to the terms of Subsection 3.4(d) of said Regulations (Exhibit "A").

9. The parties to this Contract agree to incorporate into this Contract the mandatory language of Subsections 7.4(a) and (b) of the Regulations promulgated by the Treasurer pursuant to P.L.1975, c.127, as and supplemented from time to time and the Contractor or Subcontractor agrees to comply fully with the terms, provisions and obligation of Subsections 7.4(a) and (b).
10. Should any provisions of this agreement be held invalid or unenforceable by any Court of competent jurisdiction, all other provisions shall, nonetheless, continue in full force and effect, to the extent that the remaining provisions are fair, just and equitable.
 - a. The parties each respectively agree that they will at any time hereafter, on request, make, execute and deliver any and all releases, waivers and other instruments, papers or documents as the other party may reasonably require for the purpose of giving full effect to the covenants, provisions, promises and terms contained within this Contract, including but not limited to any documents specifically provided for herein.
11. The laws of the State of New Jersey shall govern the execution and enforcement of the within Contract.
12. The headings of the several subdivisions and paragraphs of this Contract are inserted solely for the convenience of reference and shall have no further meaning, force or effect.
13. The parties agree to be bound by any and all laws and regulations of any

governmental unit which has jurisdiction hereunder.

14. The Contractor agrees that the Borough may extend the termination date of this contract for a period not to exceed ninety (90) days at the same compensation set forth in this contract but based on proration of such amount in accordance with the extension time periods selected.
15. This contract is further expressly conditioned upon the approval of the Borough budget for each of the years covered by the Contract and the inclusion therein of any appropriation in the amount required to be paid by the Borough during each of the said years.
16. Prior to the execution of the contract, the Contractor will furnish a Bond for faithful performance of the Contract in an amount equal one hundred (100%) percent of the annual value of the three (3) year Contract. Agents of bonding companies which writes Bonds for the performance of this contract shall furnish the necessary Power of Attorney, bearing the seal of the company, and evidencing such agent's authority to execute the particular type of Bond, to be furnished as well as the right of the surety company to do business in the State of New Jersey.
17. The Contractor will complete, sign and deliver at the time of the submission of this Agreement an Affirmative Action Affidavit on the form provided for by the Borough, attached hereto
18. All Borough of Moonachie Contracts prohibit discrimination in the hiring of persons who are qualified and available to perform work to which the contract relates, by reason of race, creed, color, national origin, ancestry or sex in accordance with N.J.S.A. 10:21

through 10:24, including all amendments to same. All Contractors shall comply with the act relative to affirmative action in relation to the Laws Against Discrimination as per Chapter 127, P.L. 1975 and listed in This contract.

19. The Contractor shall employ only competent and skillful workers to perform the tasks called for by the terms of the contract, and the Contractor shall furnish a list of all personnel to be employed to the Borough of Moonachie, if and when, requested to do so.
20. The Contractor shall immediately take out and subsequently maintain Workers Compensation Insurance with an insurance carrier acceptable to the Borough of Moonachie, in order to fully protect both the Contractor's employees and the Borough of Moonachie as required by existing law, and Contractor shall make the necessary adjustments to such coverage in order to conform with any subsequent changes in said law which may occur during the term of Contract.
21. All work shall be subject to such reasonable rules, schedules of operation and regulations as shall be prescribed from time to time by the Borough Council or its authorized agent. The entire service and/or contractual obligation shall be conducted and managed subject to and in harmony with all ordinances and laws of the Board of Health and the Borough of Moonachie, and the State Board of Health, and of the provisions of this contract.
22. The Contractor shall take out and maintain during the term of the contract, at Contractor's own expense, the following policies of insurance:
 - a. Public Liability Insurance for both Bodily Injury and Property Damage;
 - b. Automobile Insurance with respect to both Personal Injuries and Property Damage.

The aforementioned policies of insurance, which shall be maintained in amounts to be hereinafter set forth, shall be specifically designed to protect the Borough of Moonachie from all claims and damages, including wrongful death claims, of any kind or nature whatsoever, which may arise from the operation of the Contractor in the performance of This Contract; whether such operations be controlled by the Contractor or by someone either directly or indirectly employed by the Contractor for the purpose of accomplishing some obligation incumbent upon the Contractor by the terms of the contract.

23. All of the insurance policies herein mentioned, including the Workers Compensation Policy, shall be written with companies acceptable to the Borough of Moonachie and authorized to do business in the State of New Jersey and shall be obtained and properly endorsed to the Borough before any operations of the Contractor are commenced within or without the Borough of Moonachie; and said policies shall remain in full force and effect until the expiration of the term of the Contractor in completion of all duties to be performed hereunder by the Contractor's, whichever shall occur later. The Contractor, shall likewise deposit, with the Borough either the original policies of insurance herein mentioned or true and legible copies thereof. Each and every policy, of insurance herein mentioned, including the Workers Compensation Policy, and required pursuant to the terms of this contract, shall carry an endorsement to the effect that the insurance carrier will convey to the Borough of Moonachie at least thirty (30) day notice prior to the effective date of any such modification, alteration or cancellation.

It shall be the responsibility of the Contractor in obtaining the aforesaid insurance

coverage to obtain policies which shall protect the Borough of Moonachie from, any and all claims, whatsoever their nature, regardless of whether the same are directed toward the recovery of damage or any other element of damage which may be incident to the same. This insurance coverage shall likewise extend to and include all direct or indirect employees of the Contractor and shall include policies or liability insurance on all vehicle and equipment utilized or in any way connected with the services or prohibits to be rendered by the Contractor pursuant to the terms of this contract. In this regard, Contractor will provide Borough with a written updated schedule of vehicles and equipment which it intends to dedicate for the purposes herein. The said schedule shall be updated in accordance with any changes made by Contractor.

The amounts of the aforesaid insurance coverage shall be as follows:

- A. Public Liability Insurance Policy shall be in an amount of not less than \$500,000.00 for personal injuries, including wrongful death, to any one person, and subject to the same limit for each person in an amount not less than \$1,000,000.00 not less than \$1,000,000.00 on account of one accident, and said policy shall contain property damage insurance coverage in an amount not less than \$100,000.00 for each incident and for an aggregate limit of not less than \$100,000.00.
- B. The coverage of all automobile insurance, if any, shall provide that the coverage for each automobile, truck, vehicle or other equipment used in the performance of this contract shall be in an amount not less than \$500,000.00 for personal injuries, including wrongful death, to any one person and subject to the same limit for each person, in an amount of not less than \$1,000,000.00 on account of one accident.
- C. Property Damage Insurance with respect to each automobile, truck, vehicle or other equipment used in the performance of This contract shall provide for coverage in an amount not less than \$250,000.00 on account of any one accident.
- D. Products Liability Insurance Policy shall be in amount of not less than \$1,000,000.00 for personal injuries, including wrongful death, to any one person, and subject to the same limit for each person in an amount not less than

\$1,000,000.00 on account of one accident, and said policy shall contain property damage insurance coverage in an amount not less than \$100,000.00 for each incident and for an aggregate limit of not less than \$100,000.00.

24. In the event that the Contractor shall be in default of the contract, or if the Contractor shall ever fail to collect materials required herein and such default or failure shall be uncured for a period of three (3) consecutive calendar days excluding Saturday, Sundays, and Holidays, the Borough may, at its option, render this Contract in default. The Foregoing option of the Borough, upon any default or failure by the Contractor, is cumulative to its other legal and equitable rights; therefore, upon any material breach hereunder, the Borough may likewise have the option of simply notifying Contractor's surety on its Performance Bond of the Contractor's breach and demanding that the surety complete the Contractor's obligations hereunder or forfeit the penal amount of its said Bond, or the Borough may likewise at that time immediately commence all available legal and equitable remedies against the Contractor and its surety for the immediate and specific performance of this agreement and the payment of all damages sustained by reason of said breach. It is herein stipulated and agreed that in the event of a labor stoppage; labor strike; lockout; destruction of or damage to or interruption, suspension or interference with the operation of Contractor's equipment caused by acts of God, fires, explosion or other matters beyond the reasonable control of the Contractor; restraints of government, lawful orders of Court, administrative agencies or governmental officers; or permits; changes in laws, regulations or emergency, the Contractor shall not be considered in default or breach of the contract by reasons thereof, provided, however, that the Borough of Moonachie's costs of performing the work specified in the contract to be done during such period

shall be charged to the Contractor as in the case of a default by Contractor. This paragraph is not intended to permit a shifting of any increased cost in expense to the Borough as result of an occurrence defined herein and Borough shall only be obligated to pay the contract amount to Contractor during the contract period.

25. Neither the Contract nor any portion thereof nor any of the proceeds thereof may be assigned, sublet or transferred to any person, firm or corporation, except upon the prior written consent and approval of the Borough of Moonachie.

26. The within Contract is subject to the provision of the following statutes, executive orders, legislation and same are hereby incorporated by reference and made a part hereof as though fully set forth:

- a. N.J.S.A, SS 34:10-1; 34:9-1; 34:9-2 and 40A:11-17 together with revisions thereof.
- b. Federal Executive Order No. 11246 entitled "Equal Employment Opportunity", as by Executive Order No. 11375 and as supplemented in the Department of Labor Regulations (41, CFR; Part 60).
- c. The Copeland "Anti Kick Back" Act, (18 U.S.C. 874), as supplemented by Department of Labor Regulations (29 CFR; Part 3).
- d. Davis-Bacon Act (40 U.S.C. 276(1) to (a)-7) and as supplemented by Department of Labor Regulations (29 CFR, Part 5).
- e. Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U. S. C. 327330) as supplemented by the Department of Labor Regulations (29 CFR Part 5).
- f. New Jersey Prevailing Wage Act (Chapter 150, laws of 1968) and the New Jersey Affirmative Action Program, as promulgated by the State Treasurer

(P.L.1975, c. 127). The Prevailing Wage Rate Determination by the New Jersey.

g. Department of labor and Industry is on file with the Borough and is herein made part of this contract.

h. All other provisions of law pertaining to the within work.

27. The above laws are not intended to pertain to Contractor if by their terms the said laws are inapplicable to the Contractor in its professional capacity. In the event that the New Jersey Public Contracts Law applies to the within Agreement, relative to any bidding requirements, then and in that event, Contractor agrees to comply with the requirements established by law.

28. Contractor represents and warrants that it is fully aware of its responsibility under the mandatory laws of the State of New Jersey, and with respect thereto, asserts that it is in compliance with any and all laws, rules and regulations of any and all governmental entities pertaining thereto.

29. Contractor agrees and warrants that it is fully aware of its responsibility under the environmental laws of the State of New Jersey and United States of America with respect thereto, asserts that it is in compliance with any and all laws, rules and regulations of any and all governmental entities pertaining thereto.

30. If the Contractor fails to perform the work and/or services within the scope of this Agreement, the Contractor shall be responsible to the Borough of Moonachie for liquidated damages for the sum of twenty- five (\$25.00) dollars as for each and every failure to collect solid waste materials as more specifically described in the specifications from any premises in the Borough on the day when collection should be made and where the same shall have

been properly placed for removal, The Contractor shall pay to the Borough of Moonachie as liquidated damages the sum of two hundred fifty (\$250.00) dollars for each other failure to comply with the requirements as per the Specification if the Borough shall so elect, and it shall be deemed to be a violation of the Specification. The Borough shall deduct and retain out of any money due or to become due hereunder the amount of the liquidated damages.

31. Contractor agrees to make payment for all proper charges for labor or materials required in the performance of the specifications aforesaid and hereby agrees to indemnify, defend and save harmless the Borough, its officers, agents and servants against and from all damages (inclusive of any and all consequential costs and legal expenses) to which the Borough or any of its officers, agents or servants may be put, by reason or injury to the person or property of others, resulting from carelessness in their performance of said Contract or through defective machinery, implements, materials or appliances used or supplied by the Contractor in the execution of This Contract, or through any act or omission on the part of the Contractor, its agents or servants.

32. All material provided is guaranteed to be as specified. All work to be completed in a workman-like manner according to standard practice. Contractor guarantees, any and all material and services, reasonable wear and tear accepted, for period of twenty-four (24) months from the date of completion of the project. Any, and all work and materials required hereunder shall be approved by the Borough Administrator of the Borough of Moonachie and in conjunction therewith, Contractor agrees to adjust any services or materials provided in accordance with the said Borough Administrator's instructions.

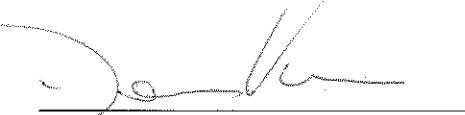
33. In the event that there is any conflict with the terms and provisions of Schedule "A", attached hereto, and made a part hereof, then and in that event, the provisions of this Agreement shall supersede those contrary terms set forth in Schedule "A".

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, their seals affixed and attested by their duly authorized officers.

ATTEST:

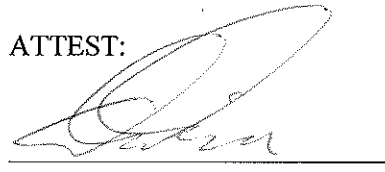
BOROUGH OF MOONACHIE

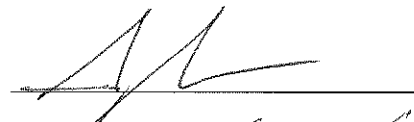

SUPRIYA SANYAL
Borough Clerk


DENNIS VACCARO
Mayor

ATTEST:

JOSEPH SMENTKOWSKI, INC.


SECRETARY


PRESIDENT GARY GIORDANO

THOMAS GIORDANO