

R-175-15

RESO RE: SOLID WASTE AND
RECYCLING

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
GRANELL			X			
PRONTI			X			
CRUZ		X	X			
ZAMMATORE			X			
FITZHENRY			X			
HUGHES	X		X			
BIANCHI						
TOTAL						
ON CONSENT AGENDA ___ YES ___X___ NO						

BE IT RESOLVED by the Mayor and Council of the Borough of North Arlington, Bergen County, New Jersey that the Contract for the “Uniform Bid Specifications for 2015 Solid Waste and Recycling”, be awarded to Cali Carting, for the bid amounts as follows:

Solid Waste Bid Proposal E (bid tabulation sheet 6 of 8)

5 years \$2,238,000.00

Recycling Base Bid with 3 days Commercial Cardboard (sheet 2 of 6)

5 years \$ 970,000.00

For a total of 3,208,000.00

This Resolution to take effect upon certification of this Resolution by the Borough Treasurer that sufficient funds are available.

Dated:

Certified: Stephen P. Saugan
2015, 2016, 2017, 2018, 2019, 2020
Borough Treasurer

Dated:

Approved: Joseph P. Bianchi
Mayor

CERTIFICATION

I, Kathleen Moore, Clerk of the Borough of North Arlington, Bergen County, New Jersey, do hereby certify that the Board of Commissioners of the Borough of North Arlington, at a regular meeting held, August 13, 2015.

Dated: 8/13/15

Kathleen Moore
Clerk

CONTRACT

THIS AGREEMENT is made this first day of September 2015, By and Between: **THE BOROUGH OF NORTH ARLINGTON**, a Municipal Corporation of the State of New Jersey, Bergen County hereinafter referred to as "**BOROUGH**" and Cali Carting, a Corporation of the State of New Jersey with its principal office at 450 Bergen Avenue, Kearny, New Jersey, 07032 hereinafter referred to as "**CONTRACTOR**".

WITNESSETH:

1. The **CONTRACTOR** agrees to furnish all labor and materials and to perform the services required in connection with the collection and disposal of solid waste and the collection and disposal of mandated recyclables, from the **BOROUGH OF NORTH ARLINGTON** for the period commencing August 15, 2015 and terminating August 15, 2020, (a total of five (5) years, unless extended pursuant to the terms herein set forth), Pursuant to detailed **SPECIFICATIONS** by the Municipality, entitled "Specifications for the collection of Mandated recyclables, for the **BOROUGH OF NORTH ARLINGTON**, Bergen County, New Jersey" Uniform Bid Specification for 2015 Solid Waste & Recycling, Bid Proposal E & Recycling Base Bid with 3 commercial card board pickup, which said detailed Specifications are attached hereto and made a part hereof, for a total price not to exceed Three Million Two Hundred Eight Thousand Dollars and no/100 Dollars (\$3,208,000.00).

2. All of said work is to be performed in a good and workmanlike manner.

3. The **CONTRACTOR** agrees to do all the work required to provide the collection and disposal of solid waste and the collection of mandated recyclables from the **BOROUGH OF NORTH ARLINGTON**, County of Bergen, New Jersey and to dispose of same at an approved disposal site or sites in accordance with all applicable State and Federal rules and regulations. The **CONTRACTOR** further agrees to supply all personnel, labor, materials, means of transportation, equipment, vehicles, tools, implements, and disposal facilities necessary for the adequate, proper and sanitary removal and disposal of mandated recyclables and solid waste, as more particularly described in the scope of work and the Specifications and Contract document therefore as prepared by **Neglia Engineering**, 34 Park Avenue, Lyndhurst, New Jersey hereinafter referred to as **BOROUGH ENGINEER**; all which are made a part here and collectively evidence and constitute the contract.

4. The **BOROUGH** does hereby hire the **CONTRACTOR** to perform the above work, and agrees to pay for same, a sum not to exceed Three Million Two Hundred Eight Thousand (\$3,208,000.00) Dollars said sum to be paid subject to the terms and conditions of this contract, and in the manner, and at the time hereinafter stated.

5. It is understood and agreed that the **BOROUGH** in entering into this contract, is contracting for the collection and disposal of solid waste and the collection and disposal of

mandated recyclables to be thoroughly and completely performed by **CONTRACTOR** in accordance with the specifications. If there is any ambiguity or conflict in the specifications, which are susceptible to one or more interpretations, or if there are any omissions in the specifications, the **CONTRACTOR** agrees that the interpretation in writing of the **BOROUGH ENGINEER** in connection therewith, in any one or more instances, will be binding and conclusive on the **CONTRACTOR** and the **CONTRACTOR** agrees to do whatever may be necessary with reference thereto. If there is any conflict between this provision in the contract, and any other, the terms of this provision will prevail.

6. The **CONTRACTOR** agrees to carry all necessary insurance as its own expense in the operation of the said work, and during the continuance thereof, including but not limited to Workmen's Compensation Insurance, Liability, and Property Damage Insurance and covering all of its trucks, devices, and other equipment used by it or its servants, agents, employees or **SUBCONTRACTORS**. The **CONTRACTOR** at the request of the **BOROUGH**, shall produce the said policies of insurance for inspection, approval, and deposit with said **BOROUGH**. The **CONTRACTOR** further agrees to pay all social security, unemployment insurance, and other taxes required. It is understood and agreed that the **CONTRACTOR** is not to be considered in any respect an agent of the **BOROUGH**, but is specifically stated to be an independent **CONTRACTOR**. Prior to the **CONTRACTOR** commencing work, the **BOROUGH** shall be furnished with certificate or certificates of insurance certifying that the required coverages are in effect.

7. The **CONTRACTOR** agrees to keep the work herein contemplated well-manned with a sufficient number of skilled workmen, under proper supervision at all times.

8. The **CONTRACTOR** agrees to commence the work hereunder on July 1, 2015, and continue to properly prosecute its said work, so that the scope of the said work is fully and completely performed by the **CONTRACTOR**, during the term of this contract, to the end that the **CONTRACTOR** shall provide to the **BOROUGH** the collection and disposal of solid waste and mandated recyclables collection and disposal service for the **BOROUGH**. In the event that the said work is not substantially completed and performed by the **CONTRACTOR** in a good and workmanlike manner, then and in that event, the **CONTRACTOR** agrees that there may be deducted from the contract price herein, any wages paid to any persons or businesses, necessarily employed by the **BOROUGH** to perform the said work herein required. It is understood that time is of the essence, and that any damages sustained by the **BOROUGH** by reason of failure of the **CONTRACTOR** to perform, shall be chargeable to **CONTRACTOR**, and paid to the **BOROUGH**.

9. It is agreed that in the event the **CONTRACTOR** shall become insolvent, make an assignment for the benefit of creditors, be adjudicated a bankrupt or insolvent, to take proceedings for liquidation by arrangement of composition with creditors, either voluntarily or involuntarily, that any of said acts may be considered a violation of this contract.

10. The **CONTRACTOR** agrees that should it fail to prosecute the work to the satisfaction of the **BOROUGH**, or cause by any action the stoppage of the work, or fail to comply in any other respect to this contract, then upon the happening of any of the foregoing events, the

CONTRACTOR agrees that the **BOROUGH** may, by written notice mailed to the **CONTRACTOR** at its last known place of business, or by notice delivered at such place, terminate this contract, and take over the work and prosecute the same to completion, by contract, or otherwise, and make such payment as the **BOROUGH** deems necessary for the discharge in whole or in part of the claims, liens, or claims for liens or any person in connection with any work herein contemplated; and the **CONTRACTOR** further agrees that the expenses of such notice and the completion of the said work, and the amount paid for the discharge or payment on account of claims, liens, or claims for liens, and the expense thereof, shall be deducted from the amount due or to become due to **CONTRACTOR** and if more than the amount due, than the **CONTRACTOR** shall be liable to the **BOROUGH** for the difference, and the **BOROUGH** may hold, sell, or otherwise realize upon any material, machines, tools, or other equipment upon the premises on account of such difference; if the **CONTRACTOR** shall fail to or refuse to pay the same; all without prejudice to any other remedy the **BOROUGH** may have.

11. As a condition precedent, it is agreed that this contract shall not become effective until the **CONTRACTOR** shall procure and deliver to the **BOROUGH** a surety bond as provided for by law with good and sufficient surety, satisfactory to the **BOROUGH**, guaranteeing that the **CONTRACTOR** shall work and faithfully do and perform the things required under this contract and in accordance with the terms thereof, and with an additional obligation for a payment bond covering the payment by the **CONTRACTOR** and by all **SUBCONTRACTORS** for all labor performed or materials, provisions, or other supplies, teams, fuels, oils, implements, or machinery used or consumed in, upon, for, or about the performance of the said work. Said bonds to be in the form required by N.J.S.A. 2A:44-143 Revised Statutes of New Jersey, and all amendments and supplements thereof, and same to be each in the amount of one hundred percent (100%) of the total contract price. The amount of the said bond may be reduced by twenty percent (20%) of said amount after each completed year of the Contract. The surety bond and payment bond required hereunder will be procured and delivered to the **BOROUGH** upon execution of this Contract. In the event that the **CONTRACTOR** fails to procure and deliver said bonds within the time required herein, then in that event, the **BOROUGH** may declare the award null and void.

12. Unless otherwise provided by the SPECIFICATIONS attached hereto, payment will be made to the **CONTRACTOR** as follows:

a) Upon voucher being presented by **CONTRACTOR** no later than the Friday prior to the first Tuesday of each month, the **BOROUGH** will pay **CONTRACTOR** on the second Wednesday of each month (or the day after the regular monthly meeting) commencing with the second Wednesday in August the sum of \$53,466.66* until the full contract price of Three Million Two Hundred Eight Thousand Dollars and no/100 Dollars (\$3,208,000.00) has been paid with the last payment being made on the second Wednesday in July, 2020.

b) Any amount at any time due the Municipality from the **CONTRACTOR** under this Contract, or under any Law or Ordinance, including liquidated and other damages and amounts which the Municipality or any other agent thereof is authorized to incur on behalf of the **CONTRACTOR**, shall be deducted, retained, and paid by the Municipality out of the monies due or to become due the **CONTRACTOR** under this Contract, or if such monies are not sufficient, the additional money shall be furnished by the **CONTRACTOR** and if he refuses or neglects to

provide the same, they shall be provided by the sureties.

c) No claim for extra work or materials shall be made by or will be allowed to the **CONTRACTOR**, unless the same shall have been done or furnished under written order by the **BOROUGH**, given before the performance of such additional materials.

d) All claims for additional work or materials, in any month shall be made to the **BOROUGH**, in writing, before the 15th day of the following month and for failing to make such claim within such time any right of the **CONTRACTOR** to extra pay for such additional work or materials shall be deemed to have been waived and forfeited.

13. The **CONTRACTOR** agrees to save, protect, defend and hold the **BOROUGH** harmless against any liens, claims or demand of any person, for property damage, or personal injury caused hereunder by reason of the **CONTRACTOR'S** negligence or breach of contract, or otherwise arising out of this contract, or for any claim or demand for patent fees, royalties or any invention, machine, article or arrangement that may be used by the **CONTRACTOR** in the performance of the work; and further agrees to defend any and all actions and proceedings arising out of any of the foregoing claims in any suit, and to pay counsel fees and expenses of all kinds whatsoever, in connection therewith.

14. The **CONTRACTOR** agrees that upon receipt of written notification from the **BOROUGH**, received not later than two (2) months prior to June 30, 2020, the expiration-date herein, wherein the **BOROUGH** requests that this contract be extended for a ninety (90) day period with all of the same terms and conditions applying, this contract shall, in fact, then be so extended for said ninety (90) day period from July 1, 2020, to September 18, 2020.

15. There shall be no deviations, alterations, or changes from this contract or the Specifications covering the said projects, unless said deviations, alterations, or changes, are in writing, signed by both parties thereto, which writing shall specify the additional or lessor cost of same, if any.

16. The rights of the **CONTRACTOR** hereunder shall not be assigned or transferred by the **CONTRACTOR**, either in whole or in part without the written consent of the **BOROUGH**.

17. The contract is subject to the provision of all applicable New Jersey and United States statutes and executed orders pertaining to the within work, and same are hereby incorporated by reference and made a part hereof as though fully set forth.

18. **MEDIATION.** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the **CONTRACTOR'S** services, the **CONTRACTOR** may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

The **BOROUGH** and **CONTRACTOR** shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree

otherwise, shall be in accordance with the Construction industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

19. **ARBITRATION.** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with Paragraph 8.

Claims, disputes and other matters in question between the parties that are not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association.

A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the **BOROUGH, CONTRACTOR**, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon in accordance with applicable law in any court having jurisdiction thereof.

20 AFFIRMATIVE ACTION PLAN.

During the performance of this **contract**, the **contractor** agrees as follows:

A) The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual, orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provision of this nondiscrimination clause;

B) The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;

C) The contract. or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for, employment.

D) The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

E) The contractor or subcontractor agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with Food faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2 or Good faith efforts to meet targeted county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

F) The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including but not limited to employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status affectional or sexual orientation, gender identity or expression,

disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

G) The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

H) In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

I) The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302

The contractor and its subcontractor shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

21. 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 Bid Specifications).

22. 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.

23. The parties to this Contract agree to incorporate into this Contract the mandatory language of Subsection 3.4(a) of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended 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.

24. 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 amended and supplemented from time to time and the **CONTRACTOR** or **SUBCONTRACTOR** agrees to comply fully with the terms, provisions and obligations of subsections 7.4(a) and (b).

25. Should any provisions of this Contract be held invalid or unenforceable by an 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.

26. 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 agreement, including but not limited to, any documents specifically provided for herein.

27. The Laws of the State of New Jersey shall govern the execution and enforcement of the within Contract.

28. The headings of the several subdivisions and paragraphs of this Contract are inserted solely for convenience of reference and shall have no further meaning, force or effect.

29. The parties agree to be bound by any and all laws and regulations of any governmental unit which has jurisdiction hereunder.

30. 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.

IN WITNESS WHEREOF, the **BOROUGH** has caused this instrument to be signed by its Mayor, attested to by its Borough Clerk and its municipal seal to be hereunto affixed, pursuant to a Resolution of the Borough Council passed for that purpose, and the **CONTRACTOR** has likewise signed and sealed this Contract on the day and year first above written.

Attest:



Katie Moore,
Acting Borough Clerk

THE BOROUGH OF NORTH ARLINGTON

By



Joseph Bianchi,
Mayor

ATTEST:



Barbara L. Brooks

(Company)

By



John F. Cali Jr.
President
Cali Carting Inc.