RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2014-165

Council Meeting Date: 04-28-2014 Date Adopted: 04-28-2014

TITLE: RESOLUTION APPROVING CONTRACT BETWEEN THE BOROUGH OF NEW PROVIDENCE AND S. ROTUNDI AND SONS, INC. FOR JANUARY 1, 2014 - DECEMBER 31, 2015 FOR GRASS AND GARDEN WASTE COLLECTION

Councilperson Galluccio submitted the following resolution, which was duly seconded by Councilperson Madden.

BE IT RESOLVED by the Mayor and Borough Council of the Borough of New Providence, County of Union and State of New Jersey, that they do hereby approve the contract between the Borough of New Providence and S. Rotundi and Sons, Inc., in the form as attached hereto; and they do further authorize and direct the Mayor and Borough Clerk to execute same on behalf of the Borough of New Providence.

APPROVED, this 28th day of April, 2014.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GALLUCCIO	X			
GENNARO	X			
KAPNER	X			
MADDEN	X			
MUÑOZ	X			
ROBINSON	X			
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 28th day of April, 2014.

Wendi B. Barry, Borough Clerk

AGREEMENT FOR THE DISPOSAL OF GRASS, LEAVES AND BRUSH BY BOROUGH EMPLOYED CONTRACTOR AND PICK-UP OF BOROUGH-COLLECTED STREET LEAVES BY AND WITH S. ROTONDI & SONS, INC.

This Service Agreement (hereinafter entitled "Agreement"), dated July 8, 2013, by and between **S. ROTONDI & SONS, INC.** (hereinafter called "Rotondi") and the **BOROUGH OF NEW PROVIDENCE**, NEW JERSEY, (hereinafter called the "Borough")

W I T N E S S E T H:

WHEREAS, Rotondi hereby agrees to perform the services set forth herein and subject to the terms set forth herein and subject to the schedule of charges set forth herein, the Borough hereby agrees to make payments as provided for herein and to abide by the terms and conditions of this Agreement. This Agreement is a legally binding contract on the part of both Rotondi and the Borough in accordance with the terms and conditions set forth herein.

1. Grass Waste

The material to be disposed of pursuant to this Agreement is Grass Waste generated by the residents of the Borough and the Borough's Department of Public Works.

2. Leaf Waste

The material also to be disposed of pursuant to this Agreement is Leaf Waste generated by the Borough and the Borough's Department of Public Works. The Borough is not required to separate grass and leaves and brush.

3. Title to Waste

Title to all Grass Waste and Leaf Waste shall remain with the Borough until the Grass Waste and the Leaf Waste is accepted by Rotondi. Acceptance shall be deemed accomplished when the Grass Waste and the Leaf Waste has been received for disposal by Rotondi. For purposes of this Agreement, Grass Waste has been received for disposal as provided in Paragraph 7 hereof, and Leaf Waste has been received for disposal as provided in Paragraph 7 herein.

4. Insurance

Rotondi hereby agrees that it will carry comprehensive general liability insurance covering its actions in the amount of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate, and workmen's compensation insurance covering its employees as required by federal, state and legal laws, rules, regulations and ordinances (hereinafter entitled "Applicable Law") and any other insurance required by Applicable Law.

5. Access to Premises

The Borough grants to Rotondi, its agents and employees, for so long as the Agreement remains effective, reasonable access to the Borough's premises during normal business hours for purposes of fulfilling its obligations under this Agreement. Normal business hours are defined as the time period between 7:30 a.m., and 3:30 p.m., Monday through Friday, except holidays. Rotondi shall comply with the Borough's safety procedures while on Borough premises.

6. Term

Rotondi agrees to supply to the Borough the services set forth herein commencing on January 1, 2014, and terminating on December 31, 2015, for charges payable in accordance with Paragraph 7 of this Agreement. This Agreement may be terminated pursuant to the terms of Paragraph 16.

7. Services

Rotondi shall permit the Borough's Contractual Waste collector to discharge Grass Waste at its transfer site in the Borough of Chatham, in a manner which meets all requirements of Applicable Law.

Rotondi shall permit the Borough's Department of Public Works' dump trucks and towed leaf vacuum trailers to discharge Leaf Waste at the same transfer site in the Borough of Chatham in a manner which meets all requirements of Applicable Law.

Rotondi will further permit the Borough's contractual grass waste collector or the Borough's Department of Public Works vehicles to bypass any waiting line and to discharge either grass, brush, or leaves as soon as practically possible, after arriving at the Rotondi site.

Rotondi will further come to the Borough's Department of Public Works' yard to physically load loose collected Leaf Waste with his own loader, trucks, and personnel,

when deemed necessary and requested by the Borough, for physical disposal at either Rotondi's site and/or one having a contractual relationship with Rotondi. Rotondi agrees to remove stored leaves, brush, and grass from the Borough's Public Works' yard within seven (7) working days from the date of request by the Borough.

8. Disposal, Record Keeping, etc.

At the time of either disposal of Grass Waste, or Leaf Waste or Brush at Rotondi's site by either the Borough's contractual Grass Waste Collector or the Borough's Department of Public Works vehicles or the loading and picking up of Leaf Waste by Rotondi at the Borough's Department of Public Works' yard, the total cubic yard capacity of the truck and/or truck and trailer shall be documented on truck tickets to enable the Borough to receive credit for the volume of Grass Waste and/or Leaf Waste so disposed of or collected as an integral part of the tonnage grant application process.

9. Payment

The Borough shall pay Rotondi an annual amount as set forth below for the services furnished by Rotondi for an unlimited quantity of cubic yards of Grass Waste, and Brush and Leaf Waste disposed of as follows:

(a) The contractual amount for each year is as follows:

Year 2014 --- $84,000.00

Year 2015 --- $90,000.00

(b) For the year 2013 the periodic payments shall be in the amount of $12,000.00 each.

For the year 2015 paymnest shall be as follows:

January – April payments shall be $12,000.00 per month

May – December payments shall be $5,250.00 per month

The periodic payments shall be due each year on or about the following days:

May 18, 2013; June 22, 2013, August 10, 2013; September 7, 2013; October 5, 2013; November 9, 2013, December 7, 2013

The Borough shall make payments to Rotondi not later than thirty (30) days following the date of such invoice.

10. Permits

Rotondi represents that it currently has a valid State of New Jersey Department of Environmental Protection Permit to operate both a grass waste and leaf waste transfer station at 3 Watchung Avenue, Chatham, New Jersey, and a grass and leaf composting facility at Harmony Township, Warren County, New Jersey; and Rotondi represents that it possesses additional legal sites within the state of New Jersey for disposal purposes in accordance with the terms of this Contract.

11. Representations, Warranties and Covenants

Rotondi warrants, represents and covenants that:

(a) Rotondi shall perform all work in a safe and efficient manner using industry-accepted servicing practices; and

(b) Rotondi is and will be capable of loading, transporting and disposing of the Leaf Waste; and

(c) Rotondi will comply with all requirements of Applicable Law in performing the services under this Agreement.

No representations, warranties or covenants are made or have been relied upon by either party other than those expressly set forth herein.

12. Indemnification

The Borough agrees to defend, indemnify and hold harmless Rotondi from and against any and all claims, losses, costs (including without limitation attorney's fees to enforce this Agreement or otherwise), liabilities or damages to property or injury to, or death of, any person or persons resulting from or arising in any manner out of (i) the actions or omissions of the Borough, and (ii) the breach of the Borough of any of its obligations under this Agreement. Rotondi agrees to defend, indemnify and hold harmless the Borough from and against any and all claims, losses, costs (including without limitation attorney's fees to enforce this Agreement or otherwise) liabilities or damages to property or injury to, or death of, any person or persons resulting from or arising in any manner out of (i) the actions or omission of Rotondi; (ii) the breach of Rotondi of any of its obligations under this Agreement, or (iii) the inaccuracy or breach of any representation, warranty or covenant of Rotondi's as set forth in this Agreement. These indemnifications shall survive the termination of this Agreement.

13. Waiver

Any waiver by either party of any provisions or conditions of this Agreement shall not be construed or deemed to be a waiver of any other provisions or conditions of this Agreement, nor a waiver of a subsequent breach of the same provisions or conditions, unless such waiver be expressed in writing by the party to be bound.

14. Entire Agreement

This Agreement and the supporting documents constitute the entire Agreement between Rotondi and the Borough. All previous negotiations and representations not specifically incorporated herein are superseded and are rendered null and void upon execution of this Agreement. In the event that the terms and conditions of any and all supporting document conflict with this Agreement, the terms and conditions of this Agreement shall control. No modification of this Agreement shall be binding upon the Borough or Rotondi unless in writing and signed by both parties.

15. Severability

If any of these provisions shall be finally determined to be invalid or unenforceable in whole or in part, the remaining provisions hereof shall remain in full force and effect and be binding upon the parties hereto. The parties agree to reform this Agreement to replace any such invalid or unenforceable provisions with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision.

16. Termination

This Agreement may be terminated upon mutual agreement of the parties at any time. A party may also unilaterally terminate the contract upon default of any obligation of the other party provided that written notice is given to the defaulting party and the deficiency is not corrected within thirty (30) days after said notice. Nothing herein shall be construed to in any way limit any remedy available to the terminating party at law or pursuant to this Agreement.

17. Agreement

No agent, employee, or other representative of either party is empowered to alter or amend any of the terms of this Agreement unless such alteration or amendment is in

writing and has been signed by an authorized representative of each of the parties. This provision cannot be orally waived.

18. Affirmative Action:

The CONTRACTOR shall comply in all respects with the provisions of NJ.S.A. 10:5-31, et seq., and the regulations promulgated thereunder, a copy of which is attached hereto and expressly made a part hereof as Exhibit A. The CONTRACTOR shall, within seven days after receipt of notification of intent to award this contract or receipt of the contract, whichever is sooner, provide the BOROUGH with a letter of Federal Affirmative Action Approval, a Certificate of Employee Information Report from the State of New Jersey, or a completed Form AA302.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals or caused these presents to be signed by their proper corporate officers and their proper corporate seals to be hereto affixed, the day and year first above written.

BOROUGH OF NEW PROVIDENCE

ATTEST: _____
J. BROOKE HERN, MAYOR

_____
WENDI B. BARRY, BOROUGH CLERK

S ROTONDI & SONS, INC.

ATTEST: _____
ANGELO ROTONDI, JR., PRESIDENT

_____
SECRETARY

(REVISED 4/10)

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)
N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

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

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 be 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 provisions of this nondiscrimination clause.

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 orienttation, gender identity or expression, disability, nationality or sex.

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

The contractor or subcontractor, where applicable, agrees to comply with any 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.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. l7:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, 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.

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.

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, race, 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.

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 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office 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 Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27**.