

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2014-184

Council Meeting Date: 05-12-2014

Date Adopted: 05-12-2014

TITLE: RESOLUTION AUTHORIZING ASSIGNMENT AND ASSUMPTION OF CONTRACT AGREEMENT BETWEEN FIRST OCCUPATIONAL RECYCLING AND WASTE INC., AND SUBURBAN DISPOSAL INC, AND THE BOROUGH OF NEW PROVIDENCE

Councilperson Kapner submitted the following resolution, which was duly seconded by Councilperson Muñoz .

WHEREAS, the Borough of New Providence has received notification that First Occupational Recycling And Waste Inc. is ceasing there operation of collection and disposal of solid waste material, the collection of grass and brush and the collection of leaves, which presents an emergency situation for the Borough.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of New Providence, in the County of Union and State of New Jersey, that they do hereby approve and authorize the Assignment and Assumption of Contract agreement between First Occupational Recycling And Waste Inc., and Suburban Disposal Inc., and the Borough of New Providence for the collection and disposal of solid waste material, the collection of grass and brush and the collection of leaves, in the form attached hereto.

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of New Providence in the County of Union and State of New Jersey, that they do further authorize and direct the Mayor and Borough Clerk to execute same on behalf of the Borough of New Providence.

APPROVED, this 12th day of May, 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 12th day of May, 2014.

Wendi B. Barry, Borough Clerk

ASSIGNMENT AND ASSUMPTION OF CONTRACT

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACT (the “Assignment and Assumption”, is dated May 19th. 2014, by and between First Occupational Recycling & Waste Inc. a New Jersey corporation, having its mailing address at 31 Styertowne Road, Building D, Clifton, New Jersey 07012 (the “Assignor”); and Suburban Disposal Inc., a New Jersey corporation, having its mailing address at 54 Montesano Road, Fairfield, New Jersey 07004 (the “Assignee”), and the Borough of New Providence, 360 Elkwood Avenue, New Providence, New Jersey 07974 (the “Borough”).

RECITALS

- A. Pursuant to a Contract for the collection and disposal of Solid Waste materials, commencing December 17th., 2012 and ending December 31st., 2017 between the Borough of New Providence and the Assignor (per the “Agreement”), the Assignor agreed to collect solid waste materials from all the residences in the Borough (per the “Contract”), three times each week, one time per week in each section, Grass and brush collection every Monday for 31 weeks commencing in April and ending in October, Leaf Collection for 5 weeks commencing in mid-November and bulk collection at the contracted truck cost one time per year. For the term commencing December 17th. 2012 and terminating December 31st. 2017 at the rates indicated in the attached contract for the period between December 17th. 2012 and ending December 31st.2017, in accordance with the terms and conditions set forth therein.
- B. The Assignor desires to assign to the Assignee said Contract with the consent and approval of the Borough of New Providence and First Occupational Recycling & Waste Inc., effective May 19th, 2014, the date on which the Assignee began service by agreement among the Borough, the Assignor, and the Assignee until December 31, 2017th or such time as the borough has completed the bidding process as outlined in paragraph (D) of the assignment agreement, whichever first occurs.
- C. In connection with such assignment, and as contemplated by this Agreement, the Assignor has agreed to assign to the Assignee, and the Assignee has agreed to assume, all of the Assignor’s rights and obligations under the Contract, and the Borough of New Providence has approved this assignment, all as more fully set forth below.
- D. The assignee (Suburban Disposal Inc.) will assume obligation of this contract for the term commencing May 19th., 2014 and terminating December 31st. 2014, with the consent and approval of the Borough of New Providence and First Occupational Recycling & Waste Inc. or until such time as the Borough is able to award a contract for same services through the open competitive

bidding process in accordance with the Local Public Contract Law, NJSA 40A:11-1 et seq, whichever first occurs.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT'

1. Assignment of Contract. The Assignor hereby assigns, transfers, sells, conveys and delivers to the Assignee all of the Assignor's right, title and interest as Contractor under the Contract with the Borough of New Providence for the collection and disposal of recyclable materials.

TO HAVE AND TO HOLD the same unto the Assignee, its successors and assigns, from and after the date hereof, subject to the terms, covenants and conditions set forth in the Contract.

2. Assumption of Contract. The Assignee assumes all duties, obligations, and liabilities of the Contractor under the Contract.
3. Indemnification by Assignor. The Assignor shall, and hereby does, indemnify, defend and hold harmless the Assignee and the Assignee's members, principals, officers, employees, agents and representatives, and their respective heirs, successors and (the Assignee and all of the foregoing parties being collectively referred to herein as the "Indemnified Assignee Parties"), from and against any and all losses, costs, damages, claims, demands, causes of action, liabilities, fees and expenses (including without limitation reasonable attorney fees) incurred or to be incurred by any of the Indemnified Assignee Parties as a result of, arising out of or in connection with any and all matters relating to the Contract which accrued, occurred or arose on or before the date hereof (regardless of whether a claim, demand or suit with respect thereto was made or asserted on or before, or is made or asserted after, the date hereof).
4. Indemnification by Assignee. The Assignee shall, and hereby does, indemnify, defend and hold harmless the Assignor and the Assignor's partners, principals, officers, employees, agents and representatives, and their respective heirs, successors and assigns (the Assignor and all of the foregoing parties being collectively referred to herein as the "Indemnified Assignor Parties"), from any and all losses, costs, damages, claims, demands, causes of action, liabilities, fees and expenses (including without limitation reasonable attorney fees) incurred or to be incurred by any of the Indemnified Assignor Parties as a result of, arising out of or in connection with any and all matters relating to the Contract which first accrue, occur or arise after the date hereof.

5. Representations and Warranties of Assignor. All of the representations and warranties of the Assignor set forth in the Agreement are incorporated herein and a part hereof as if set forth at length herein.

6. Further Acts. The Assignor agrees that it will, at any time and from time to time upon written request therefor, at the Assignor's expense, execute and deliver to the Assignee, its successors and assigns, any new or confirmatory instruments and take such further acts as the Assignee may reasonably request to full evidence and perfect the assignment contained herein and enable the Assignee, its successors and assigns fully enjoy the rights and interests assigned hereby.

7. Successors and Assigns. This Assignment and Assumption shall be binding upon and shall inure to the benefit of the Assignor and the Assignee and their respective successors and assigns as well as the Borough of New Providence.

8. Governing Law. This Assignment and Assumption shall be governed by and construed in accordance with the laws of the State of New Jersey.

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption of Leases as of the date set forth on the first page hereof.

ATTEST:

ASSIGNOR:

First Occupational Recycling & Waste Inc.

By: _____

Name:

Title:

Date: _____, 2014

ASSIGNEE:

___COMPANY_____

By: _____

Name: _____

Title: _____

Date: _____ 2014

Borough of New Providence