CONTRACT FOR SOLID WASTE COLLECTION SERVICES FOR THE BOROUGH OF CHATHAM, NEW JERSEY

THIS CONTRACT made this 3rd day of December, 2015 by and between the Borough of Chatham, New Jersey, a Municipal Corporation in Morris County, New Jersey (hereinafter referred to as the "Borough"), and Suburban Disposal Inc., with its principal place of business at 54 Montesano Road, Fairfield, NJ 07004 (hereinafter referred to as the "Contractor").

WHEREAS, the Borough solicited bids for solid waste collection services in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. and the New Jersey Department of Environmental Protection Uniform Bid Specifications, N.J.A.C. 7:26H-6 et seq.; and

WHEREAS, the Contractor submitted the lowest responsible and responsive proposal to the Borough for said services; and

WHEREAS, by Resolution 15-335 dated November 9, 2015, the Mayor and Borough Council awarded and authorized the execution of a contract for solid waste services to the Contractor; and

WHEREAS, the Notice to Bidders, the Borough's Bid Specifications, including any modifications and addenda thereof incorporated before execution of the Contract, the New Jersey Department of Environmental Protection Uniform Bid Specifications, the Contractor's Bid Proposal dated October 20, 2015, and Resolution 15-335 dated November 9, 2015, collectively the "Contract Documents", are attached hereto and made a part hereof as though fully set forth at length herein.

NOW, THEREFORE, in consideration of the execution of this Contract, and the mutual promises, duties, undertakings, obligations, requirements and performances set forth in this Contract, and the payments provided for herein, the Contractor and the Borough agree:

1. The above recitals are incorporated herein as though fully set forth at length.

2. The Contractor acknowledges that it has examined and read the Contract Documents and the provisions of this Contract, and that it has made a thorough study of the conditions to be met in carrying out this Contract, and that it is fully acquainted with the requirements of the Contract, the facilities, finances and equipment needed and the labor and supervision necessary to complete the work, services and duties required hereunder; and the Contractor agrees that it will provide for the collection, removal and disposal of designated collected solid waste from within the territorial and geographical boundaries of the Borough as set forth in the Bid Specifications and to the full and complete satisfaction of the Contract Administrator.

3. The term of this Contract shall be for a five (5) year period commencing March 30, 2016 and ending on March 30, 2021.

4. The Borough has selected the base bid in awarding this Contract.

5. The Borough agrees to pay to the Contractor the amounts stipulated in the Contractor's Bid Proposal for the work actually performed under this Contract.

6. The Borough shall make equal monthly payments to the Contractor during the Contract Term. Payment shall be made in accordance with the Borough's policy and procedures for the payment of contract vendor claims.

7. Upon the execution of this Contract, the Contractor shall deliver to the Borough a Performance Bond in a sum not less than 100% of the Contract for a one year period, to be renewed yearly. The Contractor shall renew the Performance Bond annually during the term of the Contract and file the renewal of the performance bond with proof of full payment of the

premium with the Borough Clerk at least one hundred and twenty (120) days prior to the expiration of the then current performance bond.

The failure to deliver the performance bond will constitute a breach of contract and entitle the Borough to terminate the contract upon expiration of the then current bond. Notwithstanding termination pursuant to this section, the Contractor is obligated to fully perform through the date of termination of the contract and damages shall be assessed in an amount equal to the costs of the Borough in re-bidding the contract.

8. The Contractor shall take out and maintain in full force and effect at all times during the life of the contract, insurance in conformance with the requirements of N.J.A.C. 7:26-6.17. The insurance policy shall name the Borough, its officers, officials, agents, employees, and consultants, as an additional named insured indemnifying the Borough with respect to the Contractor's actions pursuant to the Contract. The Contractor shall furnish a certificate of insurance as proof that the insurance policies are in full force and effect.

In the event the Contractor fails or refuses to renew its insurance policies, or the policy is cancelled, terminated or modified so that the insurance does not meet the requirements of this subsection, the Borough may refuse to make payment of any further moneys due under this contract or refuse to make payment of moneys due or coming due. Alternatively, the Borough may default the Contractor and direct the surety to complete the project.

9. The Contractor hereby agrees to waive, release, hold harmless, defend and indemnify the Borough, its elected officials, appointed officers, employees, volunteers, servants and agents, as well as any of its agencies, departments, divisions, bureaus or offices (collectively referred to as the "Borough Indemnified Parties") from and against any and all past, present and future actions, causes of action, claims, counterclaims, injunctive or declaratory relief, damages,

losses and expenses, including all reasonable expenses incurred by the Borough on any of the aforesaid claims, and any and all other liabilities of any kind or nature or description whatsoever, brought by any person natural or corporation, whether arising at law or in equity, whether known or unknown, asserted or unasserted, express or implied, foreseen or unforeseen, suspected or unsuspected against the Borough Indemnified Parties that may result or arise directly or indirectly from or by reason of the performance of the contract or from any act or omission by the Contractor, its agents, servants, employees or subcontractors and that results in any loss of life or property or in any injury or damage to persons or property.

Nothing herein shall be construed to waive or otherwise relinquish any claim, defense, or immunity available to the Borough pursuant to law, including but not limited to those claims, defenses and immunities set forth in the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.

10. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner obligations under the Contract or if the Contractor shall violate any of the requirements of this Contract, the Borough shall thereupon have the right to terminate the Contract by giving written notice to the Contractor of such termination at least ten (10) days prior to the proposed effective date of the termination.

Such termination shall relieve the owner of any obligation for balances to the contractor of any sum or sums set forth in the contract. The Borough will pay only for the services accepted prior to termination.

Notwithstanding the above, the contractor shall not be relieved of liability to the Borough for damages sustained by the owner by virtue of any breach of the contract by the Contractor and the Borough may withhold any payments to the Contractor for the purpose of compensation until such time as the exact amount of the damage due the owner from the contractor is determined.

The Contractor agrees to indemnify and hold the Borough harmless from any liability to subcontractors/suppliers concerning payment for work performed or goods supplied arising out of the lawful termination of the Contract by the Borough under this provision.

In case of default by the Contractor, the Borough shall thereupon have power to contract for the completion of the work and to charge the expense of completing the work, including reasonable attorney fees, to be deducted and paid by the Borough out of any sums due or thereafter to become due to the Contractor under this Contract. If the expense incurred by the Borough in completing the work is greater than the sum which would have been payable under this Contract, then the Contractor shall pay the difference to the Borough immediately upon demand and the surety bond(s) herein required shall be security for the said indemnification or reimbursement of the Borough to the full extent of any costs, expenses and damages.

Continuation of the terms of the contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, the owner reserves the right to cancel the contract.

11. It is mutually agreed between the Borough and the Contractor that the actual damages likely to result from the Contractor's failure to comply with the Contract requirements are difficult to estimate. The parties intend that the Contractor's payment of the liquidated damages amounts for failure to comply with the Contract requirements set forth at Section 5.21 of the Bid Specifications are reasonable and do not constitute a penalty for any such breach by the Contractor. The Contractor shall pay the liquidated damages to the Borough without limiting the Borough's right to terminate this Contract as provided elsewhere herein.

12. It is agreed between the parties hereto that no payment made under this Contract shall be conclusive evidence of the performance of the services provided for, either wholly or in part.

13. The failure of the Borough to insist upon strict performance of any of the provisions of this Contract shall not be construed as a waiver or relinquishment for the future of any such provisions or conditions, but the same shall be and remain in full force and effect.

14. Except as otherwise specified herein, and until further notice by the Borough to the Contractor, the Borough Administrator, or his designee, shall be the agent of the Borough which shall administer this Contract on behalf of the Borough.

15. The interpretation of the Contract Documents, and all decisions relating to the quantity or quality of services, shall rest with the Borough Administrator.

16. It is expressly agreed that the Contractor shall comply in all respects with the laws of the State of New Jersey respecting labor and compensation and with all other statutes, ordinances, rules and regulations applicable and having the force of law.

17. Schedules of operation and regulations governing the work to be provided pursuant to this Contract may be prescribed from time to time by the Borough Administrator.

18. The Contractor shall furnish all labor, material and equipment for the provision of collection, transportation and disposal services in a sanitary and proper manner. The Contractor agrees that it will perform the Contract in strict conformity with all the Contract provisions, including those set forth in the Borough's Bid Specifications and in compliance with all present and future ordinances, regulations and lawful requirements of the Borough, the Borough's Board of Health, the New Jersey Department of Environmental Protection and the New Jersey Public Utilities, as well as the Morris County Solid Waste Management Plan, including any

amendments or changes to that Plan that may occur during the term of this Contract, and/or any waste flow order referred to in the Bid Specifications. Any and all permits required to be obtained from the Borough's Board of Health or other municipal agency shall be obtained by the Contractor at his expense.

19. The parties to this Contract incorporate the mandatory equal employment opportunity language of N.J.S.A 10:5-31 et seq. and N.J.A.C. 17:27.

20. The Contractor, and any subcontractor thereof engaged under a contract pursuant to this specification, is subject to and shall comply with the provisions of N.J.S.A. 34:11-68 with respect to record keeping of all individuals engaged in the collection or transportation of solid waste or recyclable material, excluding recycled or reclaimed asphalt or concrete, collected under this Contract as follows:

(1) Pursuant to N.J.S.A. 34:11-68, the Contractor shall keep an accurate record showing the name, the actual hourly rate of wages paid to, and the actual daily, overtime and weekly hours worked by, each individual engaged in the collection and transportation work done under this Contract, and any other records deemed necessary by the Commissioner of Labor and Workforce Development for the enforcement of wage payments, and the records shall be preserved for two years from the date of payment. The record shall be open at all reasonable hours to the inspection of the Borough awarding the contract, any other party to the contract, and the Commissioner.

(2) The Contractor shall submit a certified payroll record showing only the name, the actual hourly rate of wages paid to, and the actual daily, overtime and weekly hours worked by each individual engaged in the collection and transportation work done under the contract, in a form satisfactory to the Commissioner, to the Borough Clerk for each payroll period not more

than 10 days after the payment of wages. The Borough shall make the certified payroll record open at all reasonable hours to the inspection of any party to the Contract, the Commissioner, and any member of the public. Reporting under this section may be fulfilled by using the N.J. Department of Labor and Workforce Development's "Payroll Certification for Public Works Project" and completing columns 1-5 for each covered employee. The certification shall be submitted to the address set forth in the notice provisions of this contract.

By entering into this Contract, the Contractor acknowledges the provisions of N.J.S.A. 34:11-68 with regard to the authority of the Commissioner of the Department of Labor and Workforce Development to investigate the contractor or subcontractor's wages and any penalties that may result from failure to comply.

21. The Contractor shall be and remain an independent contractor with respect to all work performed under the terms of this Contract and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions of taxes for social security, unemployment insurance, or old age, retirement benefits, pensions or annuities now or hereafter imposed under any state or federal law which are measured by the wages, salaries, or other remuneration paid to persons employed by the Contractor on work performed under the terms of this contract, and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by any duly authorized state or federal officials; and said Contractor also agrees to indemnify and save harmless the Borough Indemnified Parties from any such contributions and taxes or liability therefore.

22. The Contractor shall keep himself/herself fully informed of and comply with all local, state, and federal laws, ordinances, and regulations.

23. Service of any notice required or agreed to be given hereunder shall be sufficient if sent by certified mail, return receipt requested or nationally recognized overnight carrier addressed as follows:

To: Borough of Chatham
54 Fairmount Ave
Chatham, New Jersey 07982
ATTN: Borough Administrator

With a Copy To:
James L. Lott, Jr., Esq.
Riker Danzig Scherer Hyland & Perretti LLP
One Speedwell Avenue
Morristown, New Jersey 07962

To: Suburban Disposal Inc.
54 Monesano Road
Fairfield, NJ 0004
ATTN: John Roselle, President

24. Should the Contractor be declared bankrupt or insolvent at any time during the performance of this Contract, by virtue of any state or federal law, that adjudication shall not terminate the liability of the Contractor under this Contract.

25. This Contract cannot be amended, modified, transferred, changed or supplemented in any respect except by written mutual agreement of both parties hereto.

26. This Contract shall be governed for all purposes by the laws of the State of New Jersey. The venue for any dispute arising out of the terms of this Contract shall be Morris County, New Jersey.

27. Whenever possible, each provision of this Contract shall be interpreted in such a manner as to be effective and valid under applicable law. If any portion of this Contract is declared invalid for any reason in any jurisdiction, such declaration shall have no effect upon the remaining portions of this Contract which shall continue in full force and effect as if this

Contract had been executed with the invalid potions hereof deleted. Furthermore, the entirety of this Contract shall continue in full force and effect in all other jurisdictions.

28. Each party recognizes that this Contract is a legally binding contract and acknowledges that it, he or she has had the opportunity to consult with legal counsel of choice. In any construction of the terms of this Contract, the same shall not be construed against either party on the basis of that party being the drafter of such terms.

29. The Contractor may not assign, delegate or otherwise transfer all or part of its rights under this Contract without the written consent of the Borough and the written approval of the New Jersey Department of Environmental protection.

30. The terms and conditions of this Contract shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, transferees and assigns.

31. This Contract may be executed in counterparts, each of which shall be deemed an original and all of which together shall be considered on and the same agreement.

32. This Contract, as set forth herein and in the Contract Documents, constitutes the entire agreement between the Borough and the Contractor, and any agreement or representation not expressly set forth in this Contract is null and void.

IN WITNESS WHEREOF, the Borough has caused these presents to be signed by the Mayor of the Borough of Chatham, County of Morris, and its corporate seal to be hereto affixed and attested by its Clerk, and the Contractor has caused these presents to be signed.

ATTEST/WITNESS:

By: _____
Robin Kline, MAS, RMC, CMR
Borough Clerk

By: _____

BOROUGH OF CHATHAM

By: _____
Bruce A. Harris, Mayor

SUBURBAN DISPOSAL INC.

By: _____
John Roselle, President

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Attachment A
Mandatory Affirmative Action Language

Goods, Professional Services and General Services Contracts
P.L. 1975, C. 127 (N.J.A.C. 17:27)

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, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital stat us, sex, affectional or sexual orientation. Such action 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, sex, affectional or sexual orientation;

The contractor 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.

The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to PL 1975, C127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including 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, sex, affectional or sexual orientation, 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.

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, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statues and court decisions of the State of New Jersey, and applicable Federal Law and applicable Federal Court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office 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 Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).