

AGREEMENT

This Agreement is dated as of the 5th day of October, 2023 by and between East Fallowfield Township (hereinafter called TOWNSHIP) and A.J. Blosenski, Inc. (hereinafter called CONTRACTOR).

TOWNSHIP and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. Work

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents, as defined herein. The scope of the Work, as defined in the Bid Specifications, may be modified under the contract to be limited to only part of the bid items and is generally described as follows:

The work entails collecting, hauling and delivering all municipal solid waste as specified in the Bid Specifications and Contract Documents, and supplying all of the labor, tools, machinery, plant and equipment, and to perform all of the work of collecting, removing and hauling of recyclable materials as required by these specifications (the "Work"). The above-referenced Work shall be inclusive of the curbside collection of the municipal solid waste from the residences on Jane Street. The day(s) selected for the collection of trash, recycling and bulk pickup shall be subject to the review and approval of the TOWNSHIP, and may not be changed without TOWNSHIP approval.

Article 2. Term

CONTRACTOR's duties under this Agreement shall commence on January 1, 2024, and run continuously for a period of three (3) calendar years, until December 31, 2026.

TOWNSHIP or CONTRACTOR may annually extend the terms of this Agreement for the 2027 and 2028 calendar years. TOWNSHIP shall provide to the CONTRACTOR 90-day notice prior to the completion of the initial term of the base contract or prior to the expiration of an additional term of the contract of its intention not to extend the contract an additional term or terms. If the TOWNSHIP does not provide such notice within 90 days of the completion of the initial term of the contract or prior to the expiration of an additional term of the contract, then the contract shall extend one additional term.

CONTRACTOR shall provide to the TOWNSHIP 180-day notice prior to the completion of the initial term of the base contract or prior to the expiration of an additional term of the contract of its intention not to extend the contract an additional term or terms. If the CONTRACTOR does not provide such notice within 180 days of the completion of the initial term of the contract or prior to the expiration of an additional term of the contract, then the contract shall extend one additional term at the sole discretion of the TOWNSHIP.

Article 3. Contract Price

3.1 Contract Price

TOWNSHIP shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents, as provided in the Bid Form, which is attached hereto as Exhibit "A," and incorporated herein by reference.

3.2 Liquidated Damages and Default

TOWNSHIP and CONTRACTOR recognize that the orderly and proper collection of garbage, trash, recyclable materials and leaf waste is a matter of serious and vital concern to the TOWNSHIP because of the effect which it has upon the health and welfare to TOWNSHIP residents.

Should CONTRACTOR violate any provision of this Agreement, or any other part of the Bid Specifications or Contract Documents, both of which are incorporated herein by reference, the TOWNSHIP will suffer financial loss. The parties recognize the delays, expense and difficulties involved in proving the actual loss suffered by TOWNSHIP if the Work is not completed on time and in an appropriate manner. Accordingly, instead of requiring any such proof, TOWNSHIP and CONTRACTOR agree to the liquidated damages set forth in the Performance Requirements, as well as those damage amounts set forth in the Technical Requirements Section of the Bid Specifications. In addition thereto, the TOWNSHIP shall have the right, in its sole discretion, to terminate the Agreement upon six (6) month's notice to CONTRACTOR (e.g., as a result of repeated or systemic failure of CONTRACTOR to provide the services set forth herein).

Article 4. Payment Procedures

TOWNSHIP will make installment payments as set forth Section 1.15 of the Performance Requirements set forth in the Bid Specifications.

Article 5. CONTRACTOR's Representations

In order to induce TOWNSHIP to enter into this Agreement, CONTRACTOR makes the following representations:

- 5.1 CONTRACTOR has examined and carefully studied the Bid Specifications and Contract Documents (including the Addenda listed in the Bid Form and the other related data identified in the Bidding Specifications.
- 5.2 CONTRACTOR has visited the TOWNSHIP and has become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.
- 5.3 CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.
- 5.4 CONTRACTOR is aware of the general nature of work to be performed for the TOWNSHIP as indicated in the Bidding Specifications and Contract Documents.
- 5.5 CONTRACTOR has given TOWNSHIP written notice of all conflicts, errors, ambiguities

or discrepancies that CONTRACTOR has discovered in the Bidding Specifications or Contract Documents and the written resolution thereof contained in the written addenda by TOWNSHIP and is acceptable to CONTRACTOR, and the Bidding Specifications and Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

- 5.6 CONTRACTOR acknowledges that it has not relied on any representations, oral or written, not enumerated herein, in executing this Contract.

Article 6. Contract Documents

The Contract Documents which comprise the entire agreement between TOWNSHIP and CONTRACTOR concerning the Work consist of the following:

- 6.1 This Agreement.
- 6.2 Notice of Award.
- 6.3 Technical Requirements of the Bid Documents.
- 6.4 Performance Requirements of the Bid Documents.
- 6.5 Addendum number 1.
- 6.6 Bid Form and Affidavits, marked as Exhibits B-H.
- 6.7 Performance Bond Performance Bond in the amount of 100% of the total value of the contract **(excluding the option years, but which shall otherwise remain in place for such option years if exercised)**.
- 6.8 The following which may be delivered or issued after the Effective Date of the Agreement are not attached hereto: _____.
(All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents).

The Bid Specifications, in their entirety, shall be considered to be incorporated herein by reference, and all provisions therein relating to the supply of trash and recycling services within the Township shall be considered terms of this Agreement. There are no Contract Documents other than those listed above in this Article 6. The Contract Documents may only be amended, modified or supplemented by written addendum executed by both parties.

Article 7. Miscellaneous

- 7.1 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written approval of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- 7.2 TOWNSHIP and CONTRACTOR each binds itself, its successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.
- 7.3 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon TOWNSHIP and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 7.4 CONTRACTOR shall obtain and keep in full force and effect during the term of this Agreement comprehensive liability insurance for the benefit of TOWNSHIP in accordance with Section 2.15 (Liability Insurance) of the Performance Requirements. Such insurance shall name the TOWNSHIP as additional insured. Insurance shall be written with companies reasonably satisfactory to Township.
- 7.5 CONTRACTOR shall indemnify, defend, and save harmless the TOWNSHIP, its officials and employees from and against any liability, injury, loss, accident, or damage to person(s) or property arising out of or relating to it's the performance of its duties under this Agreement, from any cause whatsoever, as well as any claims, actions, costs and expenses including, but not limited to, reasonable counsel fees in connection therewith, excepting any claims or actions due to or arising from the willful misconduct of the TOWNSHIP or its agents or employees or from the sole gross negligent acts of the TOWNSHIP, its officials and employees. CONTRACTOR shall ensure that all employees of the CONTRACTOR and its agents working on its behalf are covered by Workers' Compensation Insurance and shall furnish the TOWNSHIP with certificates thereof. CONTRACTOR, as a material part of the consideration to be rendered to TOWNSHIP, hereby waives all claims and agrees not to assert, at law or in equity or otherwise, any claims or actions against TOWNSHIP for damages to its property or for injury to CONTRACTOR, its agents, employees or third persons, excepting any claims or actions due to or arising from the willful misconduct of the TOWNSHIP or its agents or employees or from the sole acts of the TOWNSHIP, its officials and employees.
- 7.6 Any notice, demand or other communication required, authorized or permitted to be given under this Agreement shall be sufficient if given in writing and delivered to the party to whom or which the notice or demand is directed at the respective address of the party as indicated at the bottom of this Agreement, or to such other address as the party may give by notice complying with the terms of this section. Such notice, demand or other communication shall be delivered to the addressee by one of the following means: (i) personal delivery against receipt; (ii) certified United States mail, postage prepaid, return receipt requested; (iii) electronic mail to the individual representatives referenced below; or (iv) nationally recognized express delivery service, postage or delivery charges prepaid. The notice, demand or other communication shall be deemed given and effective as follows: (i) if by personal delivery or by express delivery service, at the time of delivery; (ii) if by mail, at the time of deposit in the United States mails; or (iii) if by electronic mail, at the time of transmitting the same to the electronic mail address of the other party representative set forth below.
- 7.7 This Agreement, together with the Contract Documents incorporated herein by reference, and exhibits attached hereto, and made part hereof, constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof, and, except as may be otherwise specifically set forth herein, supersedes all prior and contemporaneous agreements and understandings, express or implied, oral or written. Except as may be

otherwise specifically provided herein, this Agreement may not be amended, revoked, changed, altered, or modified in any manner whatsoever, other than by written unanimous agreement of and signed by all parties hereto.

7.8 This Agreement shall be governed by, and construed and enforced in accordance, with the laws of the Commonwealth of Pennsylvania, regardless of conflicts of laws principles. All claims arising from this Agreement shall be the exclusive jurisdiction of the Court of Common Pleas of Chester County or the United States District Court for the Eastern District of Pennsylvania.

IN WITNESS WHEREOF, and in consideration of the mutual covenants and undertakings contained herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the Parties hereto, intending to be legally bound, the parties hereto have caused these presents to be executed, under seal, the day and year first above written.

EAST FALLOWFIELD TOWNSHIP:

By: *[Signature]*

(Seal)

Attest: *[Signature]*

Address for giving notices:

East Fallowfield Township
2264 Strasburg Road
East Fallowfield, PA 19320
Email: sswichar@eastfallowfield.org

CONTRACTOR: *[Signature]*

By: Paul Diaz, District Manager

(Seal)

Attest: *[Signature]*

Address for giving notices:

1600 Chestnut Tree Road
Honey Brook, PA 19344

Email: Jamesclark@ajblosenski.com

Agent for serving process:

A.J. Blosenski, Inc.

