

NOTICE TO BIDDERS

The Town of Kearny invites sealed bids for the following items:

The Furnishing of Solid Waste and Recycling Collection Services

Bids will be opened and read by the Town Clerk or her designee at the Town Hall, 402 Kearny Avenue on Tuesday, May 20, 2014 at 11:00 a.m. prevailing time. All bids must be addressed and delivered to the Town Clerk on or by the designated hour.

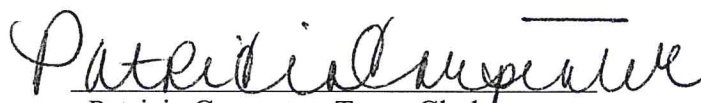
Specifications may be obtained in the office of the Town Clerk located at the Kearny Town Hall, 402 Kearny Avenue, Kearny, New Jersey during regular business hours – 9:00 A.M. to 4:00 P.M. – Monday through Friday.

Bids shall be enclosed in a sealed envelope addressed to Town Clerk, Town of Kearny, Town Hall, 402 Kearny Avenue, Kearny, New Jersey 07032. The name of the bid item must be clearly marked on the outside of the envelope.

Bids shall be made upon the Standard Bid forms, which are part of the specifications. Any bid guarantee required will be so specified in the bid documents for that item.

Attention is called to the requirements regarding employment nondiscrimination, safety and wage rates.

Bidders are required to comply with the requirements of P.L. 1975, C. 127 (N.J.A.C. 17:27).


Patricia Carpenter, Town Clerk

TOWN OF KEARNY
CONTRACT DOCUMENTS
FOR
2014 SOLID WASTE & RECYCLABLE
MATERIALS COLLECTION SERVICE

DATE OF BID OPENING:
MAY 20, 2014 at 11:00 A.M.

TOWN COUNCIL

MAYOR

ALBERTO G. SANTOS

TOWN COUNCIL

Ward 1

Alexa C. Arce
Albino Cardoso

Ward 3

Carol Jean Doyle
Eileen Eckel

Ward 2

Laura Cifelli Pettigrew
Richard Konopka

Ward 4

Susan McCurrie
Michael Landy

Town Attorney Gregory J. Castano, Esq.

Superintendent of Public Works: Gerry Kerr, CPWM

INSTRUCTIONS TO BIDDERS

1.1. THE BID

The Town of Kearny is soliciting bid proposals from solid waste companies interested in providing solid waste collection and recycling services for two distinct possible terms: a period of one year or three years with two one-year renewal options, each to commence on July 1, 2014 in accordance with the terms of these Bid Specifications and N.J.A.C. 7:26H-6 *et seq.*

These bids are being solicited to provide for solid waste collection and recycling services. The Town is seeking Collection and Recycling Services from a fully licensed solid waste entity for the collection of all solid waste generated from within the Town as fully set forth in these specifications.

All solid waste shall be disposed of in accordance with the Hudson County Solid Waste Management Plan. All recyclable material shall be delivered to market specified herein.

1.2 BACKGROUND INFORMATION

The Town is located in Hudson County, New Jersey and currently utilizes Cali Carting for the collection of solid waste types 10 & 13. It is estimated that the current hauler utilizes six solid waste collection vehicles at this time. All solid waste collected within the Town is currently disposed of as follows:

The current Authorized Disposal Facility for Solid Waste, Type 10 is the Solid Waste Transfer & Recycling, Inc. Transfer Station at 442 Frelinghuysen Avenue, Newark, New Jersey. For Solid Waste, Type 13, New Jersey Meadowlands Commission Erie Landfill Facility, Kearny, New Jersey.

The Hudson County Solid Waste Management Plan is available at the Hudson County Improvement Authority, 2 Journal Square Plaza, 8th Floor, Jersey City, New Jersey.

The Town has an active recycling program which includes residential curbside pick up as well as an active commercial recycling program.

***Bidders attention is also called to Attachment #2 for additional Municipal Data.*

Information contained herein is provided to assist the bidder in the preparation of cost calculations. It is based on reported tonnages and available data. However, the Town does not guarantee the accuracy of this information and bidders are encouraged to check all data independently.

1.3. CHANGES TO THE BID SPECIFICATIONS

Notice of any revisions or addenda to advertisements or bid documents will be published in the Jersey Journal and the Star-Ledger no later than seven days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids.

1.4. BID OPENING

All bid proposals will be publicly opened and read by the Town Clerk or her designee in the council chambers at Town Hall, 402 Kearny Avenue on Tuesday, May 20, 2014, at 11a.m., prevailing time. Bids must be delivered by hand or by mail to the Town Clerk, Town of Kearny, 402 Kearny Avenue, Kearny, New Jersey no later than 11 a.m., May 20, 2014. All bid proposals will be date and time stamped upon receipt. Bidder is solely responsible for the timely delivery of the bid proposal and no bids shall be considered which are presented after the public call for receiving bids. Any Bid Proposal received after the date and time specified will be returned, unopened, to the bidder.

1.5. DOCUMENTS TO BE SUBMITTED

The following documents shall be submitted by every bidder at the time and date specified in the public notice to prospective bidders:

1. Bid check list.
2. Certified photo-copies of bidder's certificate of public convenience and necessity and an approval letter issued in conformance with N.J.S.A. 13:1E-126;
3. Questionnaire setting forth experience and qualifications;
4. Bid Guarantee in the form of a bid bond, certified check or cashier's check in the amount of 10% of the total amount of the bid proposal, not to exceed \$20,000; payable to the Town of Kearny;
5. Non-collusion affidavit;
6. Stockholder statement of ownership;
7. Acknowledgement of Affirmative Action Certification;
8. Consent of surety;
9. New Jersey Business Registration Certificate;
10. Bid Proposal;
11. Vehicle Dedication Affidavit.
12. Evidence of Compliance with Diesel Retrofit Law.

All of the foregoing shall be submitted in accordance with the instructions hereinafter contained. The division of the Bid Specifications into parts is merely for convenience and ready reference; all parts of the Bid Specifications constitute a single document.

DEFINITIONS

2.1 The following definitions shall apply:

"Bid proposal" means all documents, proposal forms, affidavits, certificates, statements required to be submitted by the bidder at the time of the bid opening.

"Bid guarantee" means the bid bond, cashier's check or certified check payable to the Town of Kearny, submitted as part of the bid proposal to ensure that the successful bidder will enter into a contract.

"Bid specifications" means all documents requesting bid proposals for municipal solid waste collection services contained herein.

"Certificate of insurance" means a document showing that an insurance policy has been written and includes a statement of the coverage under the policy.

"Collection site" means the location of waste containers on collection day.

"Collection source" means a generator of designated collected solid waste to whom service will be provided under the contract.

"Commercial Waste" means any waste type 10, as defined at *N.J.A.C. 7:26-2.13*, generated by a wholesale, retail or service establishment.

"Consent of surety" means a contract guaranteeing that if the contract is awarded, the surety will provide a performance bond.

"Contract" means the written agreement executed by and between the successful bidder and the governing body and shall include the bid proposal and the bid specifications. The form of Contract is attached to these bid specifications.

"Contract Administrator" is the person authorized by the Town of Kearny to procure and administer contracts for solid waste collection services.

"Contracting unit" means the Town of Kearny.

"Contractor" means the lowest responsible bidder to whom award of the contract shall be made.

"Designated collected recyclable material" means those materials outlined in the Kearny Recycling Ordinance #8-11-82 and all amendments thereto. It is also referenced to herein as **"Recyclable Material"**.

"Designated collected solid waste" means solid waste types 10, 13 & 25 as defined in *N.J.A.C. 7:26 et seq.* Designated collected solid waste shall not consist of recyclable materials,

hazardous waste, or solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such waste to swine on their own farms. Designated collected solid waste is also sometimes referred to herein as **“Solid Waste”**.

"Disposal facility" means a facility that accepts solid waste and is fully licensed and permitted by the NJDEP or an applicable state agency where the facility is located. Disposal facilities include, without limitation, (a) resource recovery facilities (b) materials recovery facilities (c) transfers station and (d) sanitary landfills.

"Governing body" means the governing body of the Town of Kearny.

“Guarantor” means, if applicable, the parent corporation or other third party, its successors or assigns, which has in each case guaranteed the performance by the successful bidder of each of the bidder’s obligations under the terms of this bid.

“Hazardous Waste” means any material or substance which, by reason of its composition or characteristics is either, (i) toxic or hazardous waste as defined in either the Solid Waste Disposal Act, 42U.S.C.A. 6901 et seq., as replaced, amended, or supplemented, or any laws of similar purpose or effect, and such rules or regulations promulgated thereunder, or (ii) special nuclear or by product materials within the Atomic Energy Act or effect, and such rules or regulations promulgated thereunder; or (b) other materials which the NJDEP or the USEPA or any Governmental body shall determine from time to time is harmful, toxic or dangerous or otherwise ineligible for disposal at the selected facility.

"Holiday" means a regularly scheduled collection day on which the authorized Disposal Facilities may be closed, including:

Christmas Day; New Years Day, Martin Luther King Day,

President’s Day, Good Friday, Memorial Day, Independence Day,

Veteran’s Day, Labor Day, Thanksgiving Day

“Industrial Waste” means the waste type defined as waste type ID 27 as defined in N.J.A.C. 7:26-2.13.

“Institutional Waste” means any waste type 10, as defined in N.J.A.C. 7:26-2.13, generated by hospitals, colleges, schools, nursing homes, medical and dental professional buildings, research and development processes and laboratories.

"Legal newspaper" means the Jersey Journal and the Star Ledger.

“Liquidated damages” means those damages that may be assessed by the Town against the Contractor(s) as specified in the Contract.

“Litter” means all solid waste deposited in the litter receptacles belonging to the Governing body.

“Materials recovery” means a licensed facility where the extraction of recyclable material is performed by either mechanical or physical means and that material is returned to the economic mainstream. Residual solid waste is then transferred to a licensed disposal facility.

“Multi-Family Home” means any housing in which four or more units of dwelling space are occupied, or are intended to be occupied, by four or more persons who live independently of one another.

“Proposal forms” mean those forms that must be used by all bidders to set forth the prices for services to be provided under the contract.

“Recyclable material” means those materials which would otherwise become solid waste and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

“Residential waste” means any waste type 10, as defined at N.J.A.C. 7:26-2.13, generated by single and multi-family homes. For purposes of the uniform bid specifications, “residential waste” includes type 10 generated by apartment and condominium complexes.

“Resource recovery” means the process by which solid waste is burned at a licensed resources recover facility and the release of energy is used to generate electricity and/or/steam.

“Service area” means all dwellings, commercial properties, public buildings and all other buildings and/or structures noted within these specifications within the Town of Kearny.

“Surety” means a company that is duly certified to do business in the State of New Jersey and that is qualified to issue bonds in the amount and of the type and character required by these specifications.

“Transfer Station” means a licensed solid waste facility that prepares and transfers waste from individual solid waste vehicles to larger vehicles for the purpose of transporting the solid waste for final disposal.

“Yard Trimmings” means vegetative matter as defined in N.J.A.C. 7:26-2-2.13, including but not limited to grass clippings, leaves and brush. It does not include materials such as food waste, processing waste or soiled paper.

ADDITIONAL DEFINITIONS

2.2 ADDITIONAL DEFINITIONS. The definitions listed are to be used with the 2014 Solid Waste and Recyclable Materials Collection and are to supplement the Code of the Town of Kearny, Chapter XVII and XX and as described in attachment No. 3, “Recycling Guideline and Schedule”.

2.2-1 “Bulk Refuse” means household furniture, mattresses, box springs, carpeting, ceramic bathroom fixtures, wood and miscellaneous lumber tied securely in bundles not more than four (4) feet in length and weighing no more than 75 pounds, electrical fixtures, empty paint cans, storm windows, screens, household doors, wooden cabinets, rolled carpets, and ashes.

Bulk Refuse shall also include wallboard, plaster and home repair materials, which must be securely tied in bundles not more than four (4) feet in length, which bundles shall not weigh more than 75 pounds, but does not include bulky trash resulting from major alterations or renovations to buildings by contractors, tenants, or property owners.

Also included will be any other New Jersey Department of Environmental Protection Type 13 refuse. Lawn and garden debris are included as Bulk Refuse. Bulk Refuse does not include any item that, in the estimate of the Contract Administrator, exceeds 300 pounds.

2.2-2 “Commercial Source”. For the purpose of this Solid Waste & Recyclable Materials Collection Service Contract a Commercial Source shall mean any private, retail or service establishment, including but not limited to restaurants, markets, offices, retail and wholesale outlets, and theaters, excluding industrial establishments which place Solid Waste, Bulk Trash and Recyclable Material for Collection in the manner and quantity of a Residential Source.

2.2-3 “Container – Mechanical Pick-up” Container Mechanical Pick-up is any refuse container so designated to be used in conjunction with vehicles equipped with a hoisting mechanism for loading the containers on the chassis of a vehicle and/or dumping the contents of the containers into the vehicle.

2.2-4 “Law”. Law shall include “in accordance with law: and “in compliance with law” and other words, phrases and clauses of similar import and shall mean and include as judicially interpreted: The Constitution of the State of New Jersey; Statutes and Codes of the State of New Jersey including N.J.S.A. Title 39; The State Sanitary Code of New Jersey; The charter and Code or Ordinances of the Town of Kearny; any codes, regulations, directives, orders and mandates having the effect of law enacted by any Federal, State or county Department Board, Agency, commission or political subdivision of the foregoing where applicable to the collection, hauling or disposal of Solid Waste or Recyclable Materials specified in the Contract or specifications.

2.2-5 “Lawn And Garden Debris”. Lawn and Garden Debris shall include hedge and grass clippings, leaves, (except that no leaves shall be collected as refuse during the period from September 1st through December 31st of each year), small bushes, shrubs, small tree branches, which must be tied securely in bundles not more than four feet in length nor more than 75 pounds, and Christmas Trees.

2.2-6 “Non-Collectible Items” The following items are non-collectable under the terms of this Contract:

Earth

Stones, broken concrete, asphalt

Tree stumps, trunks and uncut limbs.

Fixtures, as related to heating, plumbing, refrigeration, or other building material resulting from major alterations or renovations to buildings or properties by owners or contractors where a building permit is required or which will, in the opinion of the Town, cause an undue hardship on the Contractor, his equipment, or his employees.

Hazardous Refuse

Medical Waste/Infectious Waste

2.2-7 “Recyclable Materials Drop-Off Site”. Recyclable Materials Drop-Off Site shall mean the market, depot, facility or facilities to which the Contractor shall be required to haul and tip and/or off-load Used Newspaper, Mixed Paper and Use Corrugated Containers for recycling.

The current Recyclable Materials Drop-Off Site is Gerensky Industry, 42 Chestnut Street, Clifton, New Jersey 07011. Phone Number 973-772-0253.

The Recyclable Materials Drop-Off Site shall not be farther in distance than 30 miles from the Town.

2.2-8 “Refrigerants”. Refrigerants are chlorofluorocarbons (CFC’s) and hydrochlorofluorocarbons (FCFCs) and synthetic chemicals commonly used as refrigerants in automobiles and home appliances, such as refrigerators, freezers, air conditioners and dehumidifiers.

2.2-9 “Town”. Town shall mean the Town of Kearny, a municipal corporation in New Jersey, and where appropriate shall mean all departments, agencies, commissions, and subdivisions thereof.

2.2-10 “White Goods/Scrap Metal”. White Goods and Scrap Metal are household appliances such as washers, dryers, stoves, hot water heaters, radiators, metal furniture, dishwashers, metal pipes, metal fencing lawn care equipment and other similar large and small metal items placed for collection.

BID SUBMISSION REQUIREMENTS

3.1. BID PROPOSAL

A. Each document in the bid proposal must be properly completed in accordance with N.J.A.C. 7:26H-6.5. No bidder shall submit the requested information on any form other than those provided in these bid specifications.

B. Bid Proposals shall be hand delivered or mailed in a sealed envelope, and the name and address of the bidder and the name of the bid as set forth in the Public Advertisement for Bids must be written clearly on the outside of the sealed envelope. No bid proposal will be accepted past the date and time specified by the Town of Kearny in the advertisement for bids.

C. Each bidder shall sign, where applicable, all bid submissions as follows:

1. For a corporation, by a principal executive officer;
2. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or
3. A duly authorized representative if:
 - a. The authorization is made in writing by a person described in sections 1 and 2 above; and

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the business.

D. The bid proposal contains two alternate base bids. The Town may, at its discretion, award the contract to the bidder whose bid price for the chosen alternative, is the lowest responsible bidder.

E. Any Bid Proposal which does not comply with the requirements of the bid specifications and N.J.A.C. 7:26H-6.1 *et seq.* shall be rejected as non- responsive.

3.2. BID GUARANTEE

A. A Bid Guarantee in the form of a Bid Bond, Cashier's Check or Certified Check, made payable to the Town of Kearny in the amount of 10% of the highest aggregate three-year bid submitted, not to exceed \$20,000 must accompany each Bid Proposal. In the event that the bidder to whom the Contract is awarded fails to enter into the Contract in the manner and within the time required, the award to the bidder shall be rescinded and the bid guaranty shall become the property of the Town of Kearny.

3.3. EXCEPTIONS TO THE BID SPECIFICATIONS

Any conditions, limitations, provisos, amendments, or other changes attached or added by the bidder to any of the provisions of these Bid Specifications or any changes made by the bidder on the proposal forms shall result in the rejection of the Bid Proposal by the Town.

3.4. BRAND NAME OR "EQUAL" SUBSTITUTIONS

Whenever the work specifications identify a brand name, trade name or a manufacturer's name, this designation is used for classification or descriptive purposes only, and the bidder may substitute an equal product, subject to the approval of the Town.

3.5. COMPLIANCE

The bidder shall be familiar with and comply with all applicable local, state and federal laws and regulations in the submission of the Bid Proposal and, if the bidder is awarded the contract, in the performance of the contract.

3.6. CONFLICT OF INTEREST AND NON-COLLUSION

Each bidder must execute and submit as part of the Bid Proposal a "Non- Collusion Affidavit" which at a minimum shall attest that:

A. The bidder has not entered into any agreement or participated in any collusion with any other person, corporate entity or government entity, or competitive bidding either alone or with any other person, corporate entity or government entity in connection with the above named project;

B. All statements made in the bid proposal are true and correct and made with the full knowledge that the Town relies upon the truth of those statements in awarding the contract; and

C. No person or business has been employed to solicit or secure the contract in exchange for a commission, percentage brokerage agreement or contingency fee unless such person possesses a Certificate of Public Convenience and Necessity and a License issued pursuant to N.J.A.C. 7:26-16 *et seq.*

3.7. NO ASSIGNMENT OF BID

The bidder may not assign, sell, transfer or otherwise dispose of the Bid or any portion thereof or any right or interest therein. This section is not intended to limit the ability of the successful bidder to assign or otherwise dispose of its duties and obligations under the contract provided that the Town agrees to the assignment or other disposition. No such assignment or disposition shall become effective without the written approval of the New Jersey Department of Environmental Protection.

AWARD OF CONTRACT

4.1. GENERALLY

A. The Mayor and Council of the Town shall award the contract or reject all bids within the time specified in N.J.S.A. 40A:11-24, except that the bids of any bidders who consent thereto may, at the request of the Town, be held for consideration for such longer period as may be agreed. All bidders will be notified of the Mayor and Council's decision, in writing, by certified mail.

B. The contract will be awarded to the bidder whose bid price for the alternative base bid selected by the Mayor and Council is the lowest responsible bid.

C. The Mayor and Council reserves the right to reject any bid not prepared and submitted in accordance with the provisions hereof, and to reject any or all bids. In the event that the Mayor and Council rejects all bids, the Town shall publish a notice of re-bid no later than 10 days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids.

4.2. NOTICE OF AWARD AND EXECUTION OF CONTRACT

Within 14 calendar days of the award of the contract, the Town shall notify the successful bidder in writing at the address set forth in the Bid Proposal and such notice shall specify the place and time for delivery of the executed contract, the performance bond, the vehicle dedication affidavit and the appropriate affirmative action documentation. Failure to deliver the aforementioned documents as specified in the notice of award shall be cause for the Town to declare the contractor non-responsive and to award the contract to the next lowest bidder.

4.3. RESPONSIBLE BIDDER

The Town shall determine whether a bidder is "responsible" in accordance with N.J.S.A. 40A:11-2 and N.J.A.C. 7:26H-6.8. The Bid Proposal of any bidder that is deemed not to be "responsible" shall be rejected.

4.4. PERFORMANCE BOND

A. The successful bidder shall provide a performance bond issued by a Surety in an amount equal to 100% of the annual value of the contract. The successful bidder shall provide said performance bond concurrent with the delivery of the executed contract to the Purchasing Agent at the address indicated in the advertisement. The performance bond for each succeeding year shall be delivered to the Town with proof of full payment of the premium 120 days prior to the expiration of the current bond.

B. Failure to provide the required one year performance bond at the time and place specified by the Town shall be cause for assessment of damages as a result thereof and as outlined in Section D below. In the event that the successful bidder fails to provide the performance bond, for the first year, the Town may award the contract to the next lowest responsible bidder or terminate the bid process and re-bid the services outlined in accordance with N.J.A.C.7:26H6.7(d) and Section 4.1 above.

C. Failure to deliver a performance bond for any year of a multi-year, contract 120 days prior to the termination of the current bond will constitute a breach of contract and will entitle the Mayor and Council to collect liquidated damages and/or terminate the contract upon the expiration of the 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 of the costs incurred by the Town in re-bidding the contract.

D. Failure to deliver the Performance Bond at the time and place specified by the Town shall be cause for the assessment of damages in an amount equal to the amount of the bid guarantee.

4.5. AFFIRMATIVE ACTION REQUIREMENTS

A. If awarded a contract, the successful bidder will be required to comply with the requirements of N.J.S.A. 10:5-3.1 et seq. and N.J.A.C. 17:27 et seq.

B. Within seven days after receipt of notification of the Town's intent to award any contract the Contractor must submit one of the following to the Town:

1. If the Contractor has a federal affirmative action plan approval which consists of a valid letter from the Office of Federal Contract Compliance Programs, the Contractor shall submit a photo copy of its letter of approval;

2. If the Contractor has a certificate of employee information report, the Contractor shall submit a photo copy of the certificate;

3. If the Contractor has none of the above, the Town shall provide the Contractor with an (A.A.302) affirmative action employee information report.

C. If the Contractor does not submit the affirmative action document within the required time period the Town may extend the deadline by a maximum of the 14 calendar days. Failure to submit the affirmative action document by the 14th calendar day shall be cause for the Town

to declare the Contractor to be non-responsive and to award the contract to the next lowest bidder.

4.6. VEHICLE DEDICATION AFFIDAVIT

A. The Contractor shall execute and submit a vehicle dedication affidavit which at a minimum shall attest that: the bidder will dedicate a fixed number of vehicles, reasonably calculated to meet the requirements of these bid specifications; or to the extent that dedication of a fixed number of vehicles is not feasible, the Contractor shall covenant that the Town will only be accountable for its proportional share of the waste contained in the collection vehicle and shall be assessed charges based only on its share of the waste at the time of disposal.

B. In the event that the Contractor(s) violates the terms of the vehicle dedication affidavit, the Contractor(s) shall take such action as is reasonably required to cure the violation. Failure to correct the violation shall constitute a breach of contract and will permit the Town to terminate the contract, and/or assess Liquidated Damages as indicated herein, and/or seek all damages to which it may be lawfully entitled.

C. The Town's GPS system shall be installed and maintained by the Contractor in all vehicles designated for Town Collections.

4.7. ERRORS IN PRICE CALCULATION

Any discrepancy between a numerical price and a price written in words shall be resolved in favor of the price as written in words. Any discrepancy between the unit price multiplied by the quantity and a corresponding total price figure set forth in the Proposal Forms(s) shall be resolved in favor of a total price reached by multiplying the unit price by the quantity. The corrected total shall be used to determine the award of the contract. After all Bid Proposals have been read, the bids will be tabulated and adjusted, if necessary, in accordance with this paragraph. If any mathematical corrections must be made on any bid proposal, then the Town may not award a contract until all tabulations are complete.

TERM AND SERVICES

5.1-1 BASE BID

The Bid Proposal shall contain two separate Base Bids as follows:

- (a) for one year; and
- (b) for three years with two renewal option periods, each of one year.

The option referred to in (b) shall be that of the Town, not of the Contractor. The Town may elect to accept the three-year bid alone without the options or the three-year bid with only the first option year, or the three year bid with both option years.

All of the provisions of these specifications are mandatory whatever the term of the bid.

5.1-2 SOLID WASTE COLLECTION SERVICE

As part of the services to be provided under the Base Bid, the Contractor shall furnish at its sole expense all labor and equipment necessary to provide adequate, uninterrupted collection of Solid Waste within the limits of the Town as described in these specifications and shall provide for the removal of the Solid Waste to the authorized disposal facility outside the Town limits.

5.1-3 COLLECTION SOURCES

The Contractor shall provide solid waste collection service, as defined in Section 5.1-2 through 5.1-11A and Recycling Collection, as defined in Sections 5.2-1. through 5.2-6, to all residential premises, including multiple family dwellings, condominium complexes and townhouses, houses of worship and Commercial Sources in each zone.

In addition, the Contractor shall collect at all Town facilities, parks, recreation areas and playgrounds and private school facilities as indicated herein. By way of description, not by way of limitation, they include:

(a) Municipal Building Locations:

- 10 Argyle Pl. – Fire Station #3 (KFD Hdqts)
- 50 Belgrove Dr. – KPD Substation
- 282 Belgrove Dr. – Marine Corps. League building
- 60 Columbia Ave. – Benstead Senior Center
- 47 Davis Ave. – Fire Station # 1
- 600 Elm St. – Pioneer Boys Club building
- 72 Halstead St. – Fire Exempt Building
- 318 Kearny Ave. – Main Library
- 402 Kearny Ave. – Town Hall
- 635 Kearny Ave. – Girl Scout Hdqts.
- 643 Kearny Ave. – Health Dept.
- 757 Kearny Ave. – Branch Library
- 237 Laurel Ave. – KPD Hdqts./KWD
- 106 Maple St. – Rear of KFD Station #2
- 353 Maple St. – KVES Bldg.n
- 901 Passaic Ave. – Sea Scout Bldg., Riverbank Park – Doyle Picnic Area
- 42A South Hackensack Avenue
- 488 Schuyler Ave. – Gunnell Oval Recreation Facility
- Sellar Street Pump Station (Dumpster)
- Senior Complex – Spruce Street
- Senior Complex – Schuyler Avenue

(b) Private Schools:

- | | |
|----------------------------|------------------------------|
| • St. Stephens School | - Midland Avenue |
| • Kearny Christian Academy | - Midland Avenue |
| • Sacred Heart School | - Highland and Wilson Avenue |
| • Kearny Christian | - Highland Avenue |

(c) Playgrounds :

- Miglin Playground located on the corner of Johnston and Sherman Avenues.
- Pettigrew Playground located on the corner of Highland and Woodland Avenue.
- Tappan Playground located on Tappan Street between Davis Avenue and Devon Street.
- Dowd Playground located on Devon Terrace and Hoyt between Davis Avenue and Devon Street.
- Rogers Playground located on the corner of Oakwood Avenue and Hickory Street.
- Belgrove Drive Playground located on the corner of Belgrove Drive near Park Avenue.
- Windsor/Grove Playground located on the corner of Windsor & Grove Street.
- Coogan/Manor Playground located on corner of W.Bennett Avenue and Jefferson Street.
- Bell Playground located on Stewart Avenue between Chestnut Street and Devon Street.
- Alexander Dean – Elm and Columbia

(d) Sports complexes:

- Gunnell Oval Complex located at 490 Schuyler Avenue has 6 baseball fields, 1 softball field, 3 soccer fields, 1 full basketball court, 1 playground area, and 1 skate park.
- Harvey Field facility located at 280 Schuyler Avenue has 3 soccer fields, 2 softball diamonds, 1 baseball field and 1 playground.
- Veteran's Field located on Belgrove Drive and Bergen Avenue has 1 baseball field, 1 softball field and 1 football field.

(e) Parks :

- Town Hall BI-Centinnial Park located on Kearny Avenue next to Town Hall.
- Memorial Park located on Kearny Avenue & Beech Street.
- Arlington Depot Park located on Garafola Place between Forest and Elm Street.
- Washington Park located on Washington Ave., at Washington Pl.
- Al Stewart Ecology Park located on the East Side of Passaic Avenue near No. Midland Avenue.
- Kearny Riverbank Park located along the West Side of Passaic Avenue between Bergen Avenue & Belleville Turnpike.
- Park at Columbia and Elm Streets.

The municipal facilities and school facilities are collected as curbside collections using containers as defined herein.

The statistical information regarding the Collection Sources within the Town is set forth in Attachment #2.

5.1-4 LITTER CONTAINERS

As part of the services to be provided under the Base Bid, the Contractor shall collect from all Town litter containers which are located at points throughout the Town at or near the street curb. The number of containers shall not exceed 125. Presently, there are approximately 80 such litter containers in use in the Town. All such litter containers shall be emptied whether they are fully filled or partially filled.

The Contractor must handle Town litter containers carefully so as not to damage them. When emptied, litter containers shall be returned to their original location. The Contractor shall be responsible for damage to the containers and liner inserts in accordance with the liquidated damage provisions in the Contract.

Under no circumstances are the Town-supplied litter containers or receptacles or parts thereof to be disposed of by the Contractor. The location of litter containers that are damaged or in such condition that they should be replaced must be reported to the Contract Administrator.

5.1-5 SOLID WASTE AND RECYCLING COLLECTION ZONES

The collection and removal of Solid Waste and Recyclable Materials shall be in accordance with the following zones:

- Zone 1: All streets in the upland section of the Town west of Kearny Avenue, but not including Kearny Avenue from the southern border with the Borough of East Newark to the railroad cut.
- Zone 2: All streets in the upland section of the Town east of Kearny Avenue, but not including Kearny Avenue from the Southern border with the Town of Harrison to Midland Avenue.
- Zone 3: All streets of Kearny north of Midland Avenue on the East side of Kearny Belleville Turnpike and all of Kearny north of the railroad cut on the west side of Kearny Avenue to the Belleville Turnpike.
- Zone 4: Zone 4 is also known as the “Business District” and it shall include all of Kearny Avenue, the east side and the west side, from the East Newark boundary to the Belleville Turnpike. Also included is Midland Avenue, north and south side from Kearny Avenue to Davis Avenue and Elm Street from the railroad tracks to Midland Avenue. All sources within this zone are to be collected with the same frequency as Commercial Sources located in the zone.

The Town may at any time change the collection zones set forth above.

5.1-6 BULK REFUSE

As part of the services to be provided under the Base Bid, the Contractor shall collect from each Collection Source two items of Bulk Refuse per collection day.

At apartment buildings or condominium complexes containing 10 or more units within a single structure, Contractor shall be required to pick up a maximum of five Bulk Refuse items per collection day.

The Contractor shall not be required to collect Bulk Refuse resulting from alterations or renovations to buildings by contractors, tenants or property owners who have been required to obtain a building permit from the Town.

5.1-7 DEAD ANIMALS

As part of the services to be provided under the base bid, the Contractor shall collect dead animals upon oral notice of the location of such animals from the Contract Administrator. The Contractor shall not be required to collect domestic or wild dead animals weighing more than 100 pounds. Contractor must provide a phone number that can be called after hours for complaints/notices regarding dead animals.

5.1-8 CLEAN OUT WEEKS

Notwithstanding the limitation on number of Bulk Refuse items set forth in Section 5.1-6 , the Contractor shall be required to provide Clean Out Week collection of unlimited Bulk Refuse from all Collection Sources one time each month. The designated collection day each month will be determined by the Town in its sole discretion, prior to July 15th of each contract year.

During Clean Out Weeks, the Contractor shall utilize such additional equipment and manpower as shall be required to collect the additional materials placed at the curb for collection on the collection day.

Clean Out Week services are to be provided as part of the services to be provided under the Base Bid.

5.1-9 WHITE GOODS/SCRAP METAL AND APPLIANCES CONTAINING REFRIGERANTS COLLECTION

As part of the services to be provided under the Base Bid, the Contractor shall collect all White Goods/Scrap Metals and appliances containing Refrigerants.

The locations at which appliances containing Refrigerants and White Goods/Scrap metals shall be collected will be provided to the Contractor by the Town in the form of a list faxed to the Contractor no later than 3:00 p.m. of the preceding Thursday.

Items collected under this provision shall be taken to American Shredding Industries, 613-639 Route 46 East, Clifton, New Jersey, or to such a salvage yard or other location as directed by the Contract Administrator. The location shall be within 30 miles from any border of the Town.

From the time that White Goods and Scrap Metals are collected by the Contractor, for purposes of this Contract, they become the property of the Town. All revenue derived from the sale thereof shall be the property of the Town.

5.1-10 COLLECTION SCHEDULE - WHITE GOODS/SCRAP METAL AND APPLIANCES CONTAINING REFRIGERANTS

The White Goods/Scrap Metals and Appliances Containing Refrigerants shall be collected every Friday.

5.1-11 APARTMENT, CONDOMINIUM COMPLEXES AND TOWNHOUSES; COLLECTION

As part of the services to be provided under the Base Bid, the Contractor shall collect Solid Waste, Recyclable Materials, White Goods/Scrap Metals, Bulk Refuse and Clean Out Week material from all apartments, condominiums complexes and town houses, and shall provide Mechanical Pickup Containers of the size and quantity set forth in section 5.1-11.A.

The containers shall be placed at locations designated by the Contractor Administrator and the Contractor.

The containers shall be emptied as provided in section 5.5.

The Contractor will be required to leave the public street for service of apartments, condominium complexes and town houses.

If the Contractor is unable to collect garbage and refuse because driveways are blocked with snow or otherwise blocked, or if the container is blocked by snow or is otherwise blocked, collection will be made on the next scheduled collection day.

5.1-11A APARTMENT, CONDOMINIUM COMPLEXES AND TOWNHOUSES – LOCATIONS

The location of the apartments, condominium complexes and town houses receiving collection as described in Section 5.1-11 are as follows:

Name	Address	# Units	# Containers	Size of Containers
Forest Junction (North)	483 Forest Street	12	1	6 cy
Forest Junction (South)	483-76 Forest Street	48	3	8 & 6 cy
Garfield Arms	300 Schuyler Avenue	18	1	6 cy
Heather Glen	700 Schuyler Avenue	99	3	8 & 6 cy
Highland Heights	140 Highland Avenue	18	1	6 cy

The above facilities are all condominiums. All containers must be rear load containers.

The General Kearny Apartments, not included above, also require the placement of containers, as follows:

- (a) two 6-yard rear load containers
- (b) one 20-yard roll off container
- (c) four 4-yard rear load containers

All other apartments, condominium complexes and townhouses located within the Town are to be collected, but shall not require the Contractor to provide Mechanical Pick Up Containers therefor. (By way of information, each individual unit of all other condominiums and town homes place Solid Waste and Recyclable Materials at the curb line in containers as described in Section 5.4.)

5.2 RECYCLABLE MATERIAL COLLECTION: GENERALLY

The Town is committed to a recycling program to protect the environment, meet State mandated goals, and reduce the amount of Solid Waste disposed of. The Contractor agrees that the Town has the right to redefine the definition of Recyclable Materials thus increasing or decreasing the Tonnage of Recyclable Materials collected in the Town.

Recyclable Material Collection shall be provided to all Collection Sources described in Section 5.1.3. .

Recyclable Material collection services are to be provided as part of the services to be provided under the Base Bid.

5.2-1 COMMINGLED MATERIAL COLLECTION

As part of the services to be provided under the base bid, the Contractor shall furnish all equipment and labor necessary and proper to provide adequate, uninterrupted collection and removal of the Commingled Materials which shall include glass or plastic containers, metal or aluminum containers and all other items generally recognized to be commingled materials to the Recyclable Materials Drop-Off Site. Commingled Materials shall be collected from the curb in reusable receptacles not exceeding 35 gallons in size nor more than 60 pounds, which containers shall be provided by the collection sources.

5.2-2 MIXED PAPER AND CORRUGATED CONTAINERS COLLECTION

As part of the services to be provided under the Base Bid, the Contractor shall furnish all equipment and labor necessary and proper to provide adequate, uninterrupted collection of Mixed Papers and Corrugated Containers and their removal to the Recyclable Materials Drop-Off site. Mixed Papers and Corrugated Containers shall be collected from the curb. (The Collection Source shall (1) tie them in bundles not exceeding 12 inches in height nor 30 pounds in weight; or (2) place them in a containers not exceeding 35 gallons in size nor more than 60 pounds, or (3) place them in brown paper grocery bags or cardboard boxes of similar size.)

5.2-3 EXCLUDED MATERIALS

If the Contractor collects non-recyclable materials, or Recyclable Materials intermingled with unacceptable materials, or mixes or intermingles Mixed Paper and Corrugated Containers and Commingled materials, the Contractor shall dispose of the same according to applicable law at Contractor's expense.

The Contractor shall not collect, load or compact the collection vehicle, or unload Recyclable Materials in a manner that would cause the material to become unmarketable or unacceptable as recyclable material.

5.2-4 OWNERSHIP OF RECYCLABLE MATERIALS

From the time Commingled Material, Mixed Paper or Corrugated and Appliances containing Refrigerants are placed for collection, they become the property of the Town.

The Contractor shall recycle all Recyclable Material.

All revenues derived from the sale of all Mixed Paper, Corrugated Containers and Commingled Materials shall be the property of the Town.

The Town has arranged with the Markets for Recyclable Materials for disposition of all Recyclable Material collected by the Contractor as a part of this contract. The market shall remit to the Town any monies received from the sale of said Recyclable Materials or bill the Town directly for any costs.

In the event that the Contractor erroneously receives by error a payment from the Markets for Recyclable Materials, the Contractor shall remit to the Town any monies received from the sale of said Recyclable Materials.

5.2-5 RECYCLING DOCUMENTATION

The Contractor shall, at its sole cost and expense, provide the Town with an annual report which sets forth the number of tons, and types of material recycled including the name and address of the markets utilized for the disposition of those materials.

5.2-6 DISPOSITION OF RECYCLABLE MATERIAL

All Recyclable Materials collected within the Town shall be delivered to the Recyclable Materials Drop-Off Site designated by the Town.

The Town may, in its sole discretion, change the designated Recyclable Materials Drop-Off Site to a location within 30 miles of the border of the Town.

The Town may also designate such a Recyclable Materials Drop-Off Site that is located farther than 30 miles from the Town, but in such event, the Town will reimburse the Contractor for its additional reasonable costs and expenses attributed to having to haul the Recyclable Materials farther than 30 miles from the Town.

5.3 OMITTED

5.4-1 CONTAINERS – LOCATION FOR COLLECTION

The collection of Solid Waste and Recyclable materials shall occur at the curb line of streets..

5.4-2 CONTAINERS – LOCATION OF COLLECTION – Mechanical Pickup.

At the locations set forth in 5.1-11.A, Contractor shall collect Solid Waste and Recyclable materials from Mechanical Pickup Containers up to and including eight cubic yards. The Contractor will be required to leave the streets of the Town to collect from the Mechanical Pickup Containers. The contractor shall provide a sufficient number of Mechanical Pickup Containers at each given site.

5.4-3. Compactor boxes, dumpsters and roll-off containers provided by the Contractor shall conform to New Jersey Department of Environmental Protection and ANSI (American National Standards Institute) Z245.30 Safety Standards and the ANSI Z245.60 Waste Container Compatibility Dimension Standards or their latest equivalent and shall be maintained as required under N.J.A.C. 7:26 et seq.

5.4-4 COLLECTION SOURCE CONTAINERS

By way of information, Solid Waste containers shall be plastic or metal receptacles or bags not to exceed 35 gallons in size or which weigh in excess of 60 pounds in gross weight. Solid Waste containers shall contain functional handles or otherwise be capable of being easily grabbed and controlled. Plastic bags shall be securely closed. Paper bags and cardboard boxes are not suitable receptacles for Solid Waste.

5.4-5. Waste containers that are stored in any of the following will not be eligible for collection:

- (1) Under porches or other structures of a similar nature
- (2) On porches or other parts of the dwelling.
- (3) In other areas not readily available from the public sidewalk.

5.5 COLLECTION SCHEDULE – SOLID WASTE

Collection and removal of Solid Waste from all Collection Sources shall occur in accordance with the following schedule:

ZONE 1: Two days per week, Tuesdays and Fridays, between the hours of 6:00 a.m. and 4:00 p.m.

ZONE 2: Two days per week, Mondays and Thursdays, between the hours of 6:00 a.m. and 4:00 p.m.

ZONE 3: Two days per week, Wednesdays and Saturdays, between the hours of 6:00 a.m. and 4:00 p.m.

ZONE 4: Six days per week, Monday through Saturday, Collection prior to 9:00 a.m.

5.5-1 COLLECTION SCHEDULE – RECYCLABLE MATERIAL

Collection of Recyclable Materials shall be from all Collection Sources as described in Section 5.1-3 except that Town litter containers are not a source for purposes of Recyclable Materials Collection.

Collection service for Recyclable Materials shall be provided in Zones 1 through 4 one day per week, Saturday and Sunday not being collection days of Recyclable Materials

Commingled Materials and Mixed paper shall be collected in each Collection Zone pursuant to the following schedule.

Monday: Zone 2 on alternating weeks

Tuesday: Zone 1 on alternating weeks

Wednesday Zone 3 on alternating weeks

Thursday Zone 4 every week

Corrugated containers shall be collected on the same day as Mixed Paper.

5.5-2 ROUTES

The Contractor shall lay out for approval by the Town specific routes throughout the Town to be taken from day to day in the performance of its collection duties.

5.5-3 HOLIDAY PICKUP:

The Contractor shall provide for collection of all solid waste and Recyclable Materials on all Holidays.

5.6. SOLID WASTE DISPOSAL

A. All solid waste collected within the Town shall be disposed of in accordance with the Hudson County Solid Waste Management Plan. The current Authorized Disposal Facility for Solid Waste, Type 10, is the Solid Waste Transfer & Recycling, Inc. Transfer Station at 442 Frelinghuysen Avenue, Newark, New Jersey. For Solid Waste, Type 13, New Jersey Meadowlands Commission Erie Landfill Facility, Kearny, New Jersey. The Hudson County Solid Waste Management Plan is available at the Hudson County Improvement Authority, 2 Journal Square Plaza, 8th Floor, Jersey City, New Jersey.

B. The Town of Kearny reserves the right to change the designated disposal facility or facilities in accordance with the Hudson County Solid Waste Management Plan and/or any waste flow orders or in the event that the designated Disposal Facility is unable to accept waste.

5.7. VEHICLES AND EQUIPMENT

A. All vehicles shall be registered with, and conform to the requirements of the New Jersey Department of Environmental Protection, in accordance with N.J.A.C. 7:26-3.1 *et seq.* In addition, all vehicles shall be designed to meet the ANSI (Association of National Standards Institute) Z245.1 safety standards in the latest version thereof.

B. All solid waste collection vehicles shall be capable of performing collection from Containers for solid waste collection which confirm to the ANSI (American National Standards Institute) Z245.30 Safety Standards and the ANSI Z245.60 Waste Container Compatibility Dimension Standards or their latest equivalent.

C. All collection trucks shall be compaction types, completely enclosed and water tight. Subject to the prior approval of the Contract Administrator, the Contractor may employ equipment other than compaction type vehicles on streets whose width precludes the use of such vehicles. The Contractor shall specify whether the vehicles are side, front or rear loading.

D. All vehicles shall be maintained in good working order and shall be constructed, used and maintained so as to reduce unnecessary noise, spillage and odor. The Contract Administrator shall have the right to inspect all vehicles, at any time, during the term of this contract, and the Contractor shall comply with all reasonable requests relative to the maintenance and repair of said vehicles and other equipment used in the execution of the Contract. All vehicles shall be equipped with a broom and shovel.

E. The Contract Administrator may order any of the Contractor's vehicles used in performance of the contract out of service if the vehicle is not maintained in accordance with the requirements of these Work Specifications. In such event, the Contractor shall replace such vehicle, at its sole cost and expense, with a conforming vehicle satisfactory to the Contract Administrator.

F. All recyclable Materials collection trucks used by the Contractor for collection of Recyclable materials shall be of a type which will not cause Commingled Materials, Mixed Paper, or Corrugated Containers to become unmarketable, or be of a type that is not comparable with the Mechanical Pick-Up Containers at the Recyclable Materials Drop-off Site.

G. For the purpose of coordination and giving notice to the Town inspectors, the Contractor's vehicles shall include two-way radios capable of transmitting and receiving at the mutual decision of the Contractor and the Director of Public Works, either the Department of Public Works band or the Contractor's own signals in which case the Town shall be permitted to have and use a transmitter-receivers or transmitter-receivers on the Contractor's bands.

H. The Contractor shall install GPS vehicle tracking devices in each and any vehicle that is used to collect any of the required materials set forth in this contract. The units shall be the same units and installed by the same contractor that the Town is using: GPS My Truck Inc. 81 Alexander Avenue, Montclair, New Jersey (973) 650-9033.

I. Bidders shall include in their bid submission, a list of all vehicles retrofit or exempt under the Diesel Retrofit Law, and a copy of the compliance form issued pursuant to N.J.A.C. 7:27-32.20 (Diesel Retrofit Law – Issuance and Completion of Compliance Forms) for each vehicle

to be used in performing the terms of this Contract. The contractor shall ensure at all times that any vehicle used in execution of this contract is in compliance with the Diesel Retrofit Law (N.J.S.A. 26:2C-8). In lieu of retrofitting their vehicles, solid waste haulers can comply with the Law by replacing their older vehicles with vehicles that have a 2010 or newer engine or vehicles powered by gasoline, propane, natural gas or electric. The Contractor shall insure that all vehicles comply with inspection requirements and idling limits set forth at N.J.A.C. 7:27-14. Bidders shall provide training for all vehicle drivers on the idling limits.

5.7-1 CONTINUED PERFORMANCE

Continued performance during the term of the contract shall be provided without interruption; and in the event that the services to be performed by the Contractor shall be interrupted by reasons of the strike of Contractor's employees or for any other reason, the Town shall have the right to the use of the Contractor's equipment and the Contractor shall license the use thereof to the Town without charge during the periods of said interruption and the monthly payments or any part thereof prorated to the period of such interruption.

5.7-2 TRAFFIC HAZARDS

Collection shall be made in such a manner that the Contractor's equipment shall not create traffic hazards or impediments to travel. Contractor, its agents, employees, and subcontractors will follow all traffic regulations and not travel on the wrong side of the road, ride the middle of the street, or travel the wrong way on a one-way street.

5.7-3 INSPECTION OF VEHICLES

The Contractor further agrees that the Town and its duly authorized agents shall have the right to inspect the Contractor's solid waste collection vehicles prior to the start of each collection day, upon demand, at the Town's Department of Public Works Town Yard located at 357 Bergen Avenue, Kearny, New Jersey.

5.8. NAME ON VEHICLES

The name, address and service phone number of the Contractor shall be placed clearly and distinctly on both sides of all vehicles used in connection with the collection services. Each vehicle utilized by the Contractor for Collection Services in the Town shall be marked with an identification number. The Town shall have the right without charge to place signs on the Contractor's vehicles to publicize instructions relating to waste collection and disposal, and to provide other town functions and programs.

5.9. TELEPHONE FACILITIES AND EQUIPMENT

A. The Contractor must provide and maintain an office within reasonable proximity of the Town with sufficient telephone lines to receive complaints or inquiries. The Contractor shall ensure that phone service is activated prior to the commencement of service and that the telephone number does not result in toll charges to the town or its residents.

B. Telephone service shall be maintained on all collection days, between the hours of 6:00 a.m. and 4:30 p.m. The Town shall list the Contractor's telephone number in the telephone directory

along with other listings for the Town. The Contractor shall maintain, at the office serving the Town, which must include an e-mail address and a telecopier (fax) machine to receive complaints, information and lists from the Town.

5.10. FAILURE TO COLLECT

A. The Contractor shall report to the Contract Administrator, within one hour of the start of the Collection Day, all cases in which severe weather conditions prevent collection of waste on a collection day, the Contractor shall collect solid waste no later than the next regularly scheduled collection day. In those cases where collection is scheduled on a one collection per week basis, that collection will be made as soon as possible, but in no event later than the next scheduled collection day.

5.11. COMPLAINTS

A. The Contractor shall promptly and properly attend to all complaints of customers and all notices, directives and orders of the Contract Administrator within 24 hours of the receipt of same. The Contractor shall be required to maintain a log of all complaints received and the action taken to remedy the complaints. The Contractor shall make the Complaint log available for inspection by the Town.

B. The Contractor shall submit a copy of all complaints received and the action taken to the Contract Administrator.

C. Should the Contractor's employees or agents destroy or damage metal or plastic receptacles, or litter receptacles belonging to the Town as a result of rough handling, the Contractor agrees to replace the receptacles with those of equal value.

D. The Contract Administrator shall make the final determination in all such complaints.

5.12. SOLICITATION OF GRATUITIES

The Contractor shall ensure that no agent or employee shall solicit or receive gratuities of any kind for any of the work or services provided in connection with the contract.

5.13. INVOICE, PAYMENT PROCEDURE & LIQUIDATED DAMAGES

A. The Contractor shall submit all invoices for collection and/or disposal services in accordance with the requirements of this section.

1. Within 30 days after the end of each calendar month during the term of the contract during which the Contractor provided services as provided in these Bid Specifications, the Contractor will submit an invoice to the Town for the preceding calendar month (the "Billing Month").

2. Where the Contractor has paid the costs of disposal of solid waste, the Contractor shall submit a separate invoice to the Town for reimbursement.

B. The original of all invoices and vouchers shall be submitted to the Town Chief Financial Officer with a copy to the Contract Administrator. The Town shall pay all invoices within 30 days of receipt. The Town will not be obligated to pay a defective invoice until the defect is

cured by the Contractor. The Town shall have 30 days from the date of receipt of the corrected invoice to make payment.

C. Invoices shall specify the number and type of vehicle used for collection in the Town the loads per truck, and the number of cubic yards and the tonnage of the material disposed of each day during the billing month. The tonnage for which the Town shall be charged shall be the difference between the weight of the vehicle upon entering the disposal facility and the tare weight of the vehicle.

D. The Contractor shall submit an invoice setting forth the costs (including all taxes and surcharges) of disposal billed by or paid to the Disposal Facility. Where the Contractor has paid the costs of disposal, the Town shall reimburse the Contractor for the actual quantity of waste disposed of based on the monthly submission of certified receipts from the Disposal Facility. The invoices shall specify the number and type of vehicle used for collection in the governing body; the number of cubic yards and the tonnage of the material disposed of each day during the billing month; and monthly receipts issued by the disposal facility showing:

1. The amount of the invoice;
2. The origin of the waste;
3. The truck license plate number;
4. The total quantity and weight of the waste; and
5. The authorized tipping rate plus all taxes and surcharges.

E. Where the Town will pay the costs of disposal, the disposal facility shall bill the Town directly for all costs (including taxes and surcharges).

F. The Contractor may utilize a materials recovery facility for intermediate processing as long as the residue is disposed of in a manner consistent with N.J.A.C. 7:26-2B.9. In the event that the Contractor chooses to utilize a Materials Recovery Facility (MRF), the Contractor shall identify the MRF on the proposal forms.

The Contractor agrees that at its sole cost and expense, it will provide to the Town with an annual report which sets forth the number of tons of solid waste delivered to the Disposal Facility during the prior year. The report shall break down the tonnage received on a monthly basis and shall indicate the fee paid (including taxes and surcharges) itemized by cost item, to the Disposal Facility by the Town.

5.14 LIQUIDATED DAMAGES

The Contractor shall be liable for liquidated damages as set forth in the Contract.

5.15. COMPETENCE OF EMPLOYEES

The Contractor's employees must be competent in their work, and if any person employed shall appear incompetent or disorderly, the Town shall notify the Contractor and specify how the employee is incompetent or disorderly and the Contractor shall take steps to correct and remedy the situation, including disciplinary action if necessary. Any employee who drives or will drive a vehicle in the course of the employee's employment pursuant to the contract must possess a valid New Jersey driver's license for the type of vehicle operated.

5.16. SUPERVISION OF EMPLOYEES

The Contractor shall employ a Superintendent or Foreman who shall have full authority to act for the Contractor. The Contractor shall notify the Contract Administrator, in writing, that a supervisor has been appointed. Such notification shall be given prior to beginning performance of the contract. The Contractor shall promptly notify the Contract Administrator, in writing, of any changes.

5.17. INSURANCE REQUIREMENTS

The Contractor shall take out and maintain in full force and effect at all times during the life of this Contract insurance in conformance with the requirements of N.J.A.C. 7:26H-6.17. The insurance policy shall name the Town as an Additional Named insured indemnifying the Town with respect to the Contractor's actions pursuant to the Contract.

The Contractor shall be required to purchase and maintain in full force and effect during the life of this Contract the following insurance coverages with limits of not less than the following:

Worker's compensation: Unlimited coverage and in accordance with New Jersey Statutes for employer's liability, Comprehensive general and contractual liability insurance coverage.

The Policies shall include personal liability, property, contractual liability, explosion, collapse and underground hazard coverage (pollution liability insurance), and completed operations coverage for the term of the Contract. Bodily injury liability limits of \$1,000,000 each person per occurrence and property damage limits of \$3,000,000 each occurrence shall be provided. The Policy shall include bidders protective liability insurance (also known as contingent liability insurance) with the same limits.

Comprehensive automobile liability insurance coverage: Bodily injury liability limits of \$500,000 each person and \$1,000,000 each occurrence, and property damage liability limits of \$3,000,000 each occurrence; Umbrella liability insurance: Liability coverage in excess of the underlying primary policies described in this section, including, without limitation, the comprehensive general and contractual liability, contingent liability, comprehensive automobile and worker's compensation policies, an umbrella policy that (i) specifically lists each of the underlying policies, (ii) has per occurrence limits of liability not less than \$10,000,000 for bodily injury liability and \$10,000,000 for property damage liability and (iii) has a policy aggregate limit of at least \$10,000,000 for bodily injury and property damage liability (A "Combined Single Limit" for bodily injury and property damage liability is permissible);

Additional Requirements:

The insurance certificate shall list the Town as an additional insured on the comprehensive general contractual liability, automobile liability, and umbrella policies.

Each insurance policy shall contain a provision stating that neither the insured, nor the insurer may cancel, materially change, or refuse renewal without 30 days prior written notice to the Town. All insurance required pursuant to this section shall remain in full force and effect until the final contract payment.

Each insurance policy shall provide that neither the contractor, nor its insurer, shall have any right to subrogation against the Town. Each insurance policy shall provide primary coverage for any and all losses and shall be drafted so as to protect all of the parties.

In the event Contractor intends to utilize any subcontractor, the Contractor shall require the subcontractor's insurance coverage to be at least equal to the minimum requirements set forth above, including without limitation, the provisions requiring that the Town be listed as an additional insured and identifying the policies providing primary coverage. In the alternative, the Contractor may insure the activities of its subcontractors under its own policies. The contractor is responsible, and will assume all liabilities, for any insurance deficiency or delinquency of any subcontractor or any claim that may result because of such deficiency or delinquency.

5.18. CERTIFICATES

Upon notification by the Town, the lowest responsible bidder shall supply to the Contract Administrator, within five days of notification, a certificate of insurance as proof that the insurance policies required by these specifications are in full force and effect.

5.19. INDEMNIFICATION

The Contractor shall indemnify and hold harmless the Town from and against all claims, damages, losses, and expenses including all reasonable expenses incurred by the Town on any of the aforesaid claims 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.

The Contractor agrees to indemnify, save harmless and defend the Town and its respective officers, members, employees and agents (Town Indemnified Parties) from and against any and all liabilities, claims, penalties, forfeitures, suits and the costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys fees), which the Town Indemnified Parties may hereafter incur, become responsible for, or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment or any violation of governmental laws, regulations or orders caused, in whole or in part, by the Contractor's performance or failure to perform its obligations under the provisions of this Bid Specification or by any negligent or willful act or omission of the Contractor, its employees or subcontractor in the performance of this Contract.

5.20 VIOLATIONS OF CONTRACT SPECIFICATIONS

Any violation of these specifications shall be sufficient cause for the imposition of Liquidated Damages, the immediate cancellation of the contract by the Town who may thereupon re-advertise or relet the work, at the expense of the offending Contractor and his sureties, and/or for the Town to seek all damages to which it may be lawfully entitled.

5.21 EVENTS OF DEFAULT

Contractor may be deemed to be in default in the performance of the conditions contained herein if the Contractor:

1. makes a general assignment for the benefit of creditors;
2. has a receiver appointed on account of the Contractor(s)'s insolvency.
3. refuses to supply enough labor, material or equipment to maintain the established schedules for Collection and/or disposal;
4. fails to make payment for material or labor;
5. fails to comply with applicable laws or ordinances of the Town;
6. violates any provision of the Contract Documents.

5.22 TOWN'S POLICE POWERS

The Contractor in the performance of the contract will be acting as an independent contractor and neither the Contractor nor his employees or representatives in the performance of the contract shall be under the control, or acting as agents or employees of the Town. The Contractor, recognizes and will acknowledge that the proposed agreement is not intended and shall not be construed as a delegation, or a limitation and restriction, of the police or other powers and obligations of the Town. The Town reserves the right, authority and discretion notwithstanding any provision herein, to adopt all rules and regulations respecting the collection and disposal of solid waste within its jurisdiction.

5.23 COMPLIANCE WITH LIVING WAGE ORDINANCE

Contractor shall comply with Town Ordinance 2007-(O)-41, as amended, requiring the payment of living wages, and the provision of employee health benefits, to all Contractor employees. A copy of Ordinance 2007-(O)-41, as amended is attached as Attachment No.3.

6. BIDDING DOCUMENTS CHECKLIST

- ___ 6.1 Business Registration Certificate (BRC) issued by the New Jersey Division of Revenue
- ___ 6.2 Photocopies of bidder's certificate of public convenience and necessity and an approval letter issued in conformance with N.J.S.A. 13:1E-126.
- ___ 6.3. Statement of bidder's qualifications, experience and financial ability.
- ___ 6.4. A bid guarantee in the form of a bid bond, certified check or cashier's check in the proper amount made payable to the Town of Kearny.
- ___ 6.5. Stockholder statement of ownership.
- ___ 6.6. Non-collusion affidavit.
- ___ 6.7. Consent of surety.
- ___ 6.8. Acknowledgement of Affirmative Action Certificate
- ___ 6.9 Bid Proposal.
- ___ 6.10 Vehicle Dedication Affidavit
- ___ 6.11 Evidence of Compliance with Diesel Retrofit Law.

Name of Firm or Individual

Title

Signature

Date

6.1 ATTACH BUSINESS REGISTRATION CERTIFICATE

**6.2. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY/A-901
APPROVAL LETTER**

Name _____

Complete Address _____

Telephone Number _____

Certificate Number

Date _____

ATTACH AN ORIGINAL COPY OF CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TOGETHER WITH AN ORIGINAL COPY OF A-901 APPROVAL LETTER

6.3. STATEMENT OF BIDDER'S QUALIFICATIONS, EXPERIENCE AND FINANCIAL ABILITY AFFIDAVIT.

STATE OF NEW JERSEY }
COUNTY OF }

SS: PROJECT NAME

I, [NAME OF AFFIANT], am the [IDENTIFY RELATIONSHIP TO BIDDER: OWNER, PARTNER, PRESIDENT, OR OTHER CORPORATE OFFICER] of the NAME OF BIDDER], and being duly sworn, I depose and say:

1. All of the answers set forth in the Questionnaire are true and each question is answered on the basis of my personal knowledge.
2. All of the answers given in the Questionnaire are given by me for the express purpose of inducing the Town of Kearny to award to [NAME OF BIDDER] the contract for solid waste collection and recycling services in the event said bidder is the lowest responsible bidder on the basis of the bid proposal which is submitted herewith.
3. I understand and agree that the Town of Kearny will rely upon the information provided in the Questionnaire in determining the lowest, responsible bidder to be awarded the contract.
4. I also understand and agree that the Mayor and Council may reject the bid proposal in the event that the answer to any of the foregoing questions is false.
5. I do hereby authorize the Town of Kearny, or any duly authorized representative thereof, to inquire about or to investigate the answer to any question provided in the Questionnaire, and I further authorize any person or organization that has knowledge of the facts supplied in such statement to furnish the Town of Kearny with any information necessary to verify the answers given.

Name of Firm or Individual

Title

Signature

Date

Subscribed and sworn to before me this
_____ day of _____, 2014.

Notary Public of

My Commission expires _____,

Note: A partnership must give firm name and signature of all partners. A corporation must give full corporate name and signature of official, and the corporate seal affixed.

QUESTIONNAIRE

This questionnaire must be filled out and submitted as part of the Bid Proposal for solid waste collection and disposal for the Town of Kearny. Failure to complete this form or to provide any of the information required herein shall result in rejection of the Bid Proposal.

Answers should be typewritten or printed neatly in black or blue ink. Answers must be legible. Any answer that is illegible or unreadable will be considered incomplete. If additional space is required, the bidder shall add additional sheets and identify clearly the question being answered.

1. How many years has the bidder been in business as a contractor under your present name?
2. List any other names under which the bidder, its partners or officers have conducted business in the past five years.
3. Has the bidder failed to perform any contract awarded to it by the Mayor and Council under its current or any past name in the past five years? If the answer is "Yes", state when, where and why. A complete explanation is required.
4. Has any officer or partner of the bidder's business ever failed to perform any contract that was awarded to him/her as an individual by the Mayor and Council in the past five years? If the answer is "Yes", state when, where and why. A complete explanation is required.
5. List all public entity contracts which the bidder or its partners is now performing or for which contracts have been signed, but work not begun. Give the name of the municipality or owner, the amount of the contract and the number of years the contract covers.
6. List the government solid waste collection and disposal services contract that the bidder has completed within the last five years. Give detailed answers to questions below relating to this subject.
 - (a) Name of contracting unit;
 - (b) Approximate population of contracting unit;
 - (c) Term of contract from-to;
 - (d) How were materials collected?
 - (e) Give location of disposal site or sites and methods used in the disposal of solid waste;
 - (f) Name and telephone number of Contract Administrator or some other official in charge of collection and disposal.
7. State all equipment owned by and/or available to the bidder for use in collection of the waste described in the work specifications. Include the make of each vehicle, the year of manufacture, the capacity, years of service, present condition and the type and size of the truck bodies.

8. Where can this equipment described above be inspected?
9. Identify all equipment that is not presently owned or leased by the bidder that will be necessary to perform the services in accordance with the work specifications.
10. Describe how you will obtain such equipment if you are awarded the contract. If such equipment is to be leased, provide the name, address and phone number of the lessor. If the equipment is to be purchased, provide the name, address and phone number of the seller.
11. If the equipment to be leased or purchased is not located at the address(s) given above in answer 9, identify where the equipment can be inspected.
12. List the name and address of three credit or bank references.
13. Supply the most recent Annual Report, as required to be filed with the Department of Environmental Protection. If the company has recently entered the collection business and has not been required to file an annual report, a financial statement for the most recent year, which includes at a minimum the bidder's assets, shall be submitted, or a financial statement for the most recent year from the bidder's parent company shall be submitted, provided the parent company's financial statement lists the assets of the bidder's company separately.
14. Additional remarks.

6.4. BID GUARANTY

[FORM SUPPLIED BY CONTRACTOR]

6.5. STOCKHOLDER STATEMENT OF OWNERSHIP

STATEMENT OF OWNERSHIP

Chapter 33, Laws of 1977, became effective March 8, 1997. It requires corporate and partnership bidders for school district contracts (as well as State, County and Municipal Agencies) to submit a list of names and addresses of all stockholders owning 10% or more of their stock or 10% or more of stock of their corporate stockholders, or in the case of partnership, the names and addresses of those partners owning a 10% or greater interest therein.

In addition, if one or more of such stockholders or partner is itself a corporation or partnership, the stockholders holding 10% or more of that corporation or the individual partners owning 10% or greater interest in that partnership, as the case may be, shall also be listed. These statements of names and addresses must be submitted prior to the receipt of the bid must accompany the bid. **NO AWARD OF CONTRACT OR AGREEMENT ENTERED INTO MAY BE MADE IF THERE IS A FAILURE TO COMPLY WITH THE PROVISIONS OF THIS LAW.**

List here (or attach) the names and addresses required under Chapter 33, Laws of 1977.

Name _____ % Ownership _____
Address _____
City/State/Zip _____

Name _____ % Ownership _____
Address _____
City/State/Zip _____

Name _____ % Ownership _____
Address _____
City/State/Zip _____

It is mandatory that bidders submit the required information, it will not be accepted after the receipt of bids. Failure to submit a stockholder disclosure statement which conforms to the requirements of the above statute will result in rejection of the bid.

6.6. NON-COLLUSION AFFIDAVIT

STATE OF NEW JERSEY}
COUNTY OF } SS: PROJECT NAME

I, [NAME OF AFFIANT] , of the City of _____ in the State (Commonwealth) of _____, being of full age and duly sworn according to law, on my oath depose and say that:

I am employed by the firm of [NAME OF BIDDER], the bidder submitting the Bid Proposal for the above named project, in the capacity of [TITLE OF AFFIANT], and I have executed the Bid Proposal with full authority to do so. Further, the bidder has not, directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project. All statements contained in said Bid Proposal and in this affidavit are true and correct and made with full knowledge that the State of New Jersey and the Mayor and Council rely upon the truth of the statements contained in this affidavit and in said bid Proposal in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the [NAME OF BIDDER].

Name of Firm or Individual

Title

Signature

Date

Subscribed and sworn to before me this
_____ day of _____, 2014.

Notary Public of

My Commission expires _____, _____.

6.7. CONSENT OF SURETY

[SUPPLIED BY BIDDER]

6.8-1 STANDARD BID FORMS:

ONE YEAR BID

The undersigned hereby agrees to provide complete performance of all of the work specified in these specifications and the Contract for the collection and disposal of solid waste types 10 & 13 and Recyclable Material for the prices listed below for the period commencing July 1, 2014 and ending June 30, 2015.

**ONE YEAR PRICE QUOTE
ALL VALUES QUOTED IN U.S. DOLLARS**

WRITTEN	IN NUMBERS
	\$

NAME OF BIDDER: _____
ADDRESS: _____

SIGNATURE _____
PRINT NAME _____
TITLE: _____

DATE: _____

(Affix seal if a corporation)

6.8-2. STANDARD BID FORM:

**THREE -YEAR BID WITH TWO SEPARATE ONE-YEAR
RENEWAL OPTIONS**

The undersigned hereby agrees to provide complete performance of all of the work specified in these specifications and the Contract for the collection and disposal of solid waste types 10 & 13 and Recyclable Material for the prices listed below (i) for the period commencing July 1, 2014 and ending June 30, 2017 for the three-year bid (ii) for the period commencing July 1, 2017 and ending June 30, 2018 for the first option year bid; (iii) for the period commencing July 1, 2018 and ending June 30, 2019 for the second option year-bid.

THREE -YEAR PRICE QUOTE WITH TWO ONE-YEAR RENEWAL OPTIONS

ALL VALUES QUOTED IN U.S. DOLLARS

	WRITTEN	IN NUMBERS
3 YEAR BID		\$
OPTION YR 1		\$
OPTION YR 2		\$

NAME OF BIDDER: _____

ADDRESS: _____

SIGNATURE _____

PRINT NAME _____

TITLE: _____

DATE: _____

(Affix seal if a corporation)

CONTRACT

1. CONTRACT.

This Contract ("Contract") is made as of the ____ day of _____, 2014, by and between Town of Kearny, a municipal corporation of the State of New Jersey, whose address is 402 Kearny Avenue, Kearny, New Jersey 07032 (the "Town"), and _____, a [state entity type] with its principal place of business located at _____ (the "Contractor").

In consideration of the mutual covenants contained herein, it is hereby agreed between the parties as follows:

2. SCOPE OF SERVICES.

Contractor shall perform all services set forth in the Bid Specifications entitled "2014 Solid Waste and Recyclable Material Collection Services" (the "Specifications") (The Specifications, the Bid Proposal submitted by the Contractor, the Resolution awarding the bid to Contractor and this Contract are collectively referred to as the "Contract Documents").

3. COMPENSATION.

The terms regarding compensation are set forth in the Contract Documents and specifically in the Bid Proposal submitted by the Contractor. The Town will not be responsible for increased collection costs to Contractor in the event the quantity of waste or sources of waste increase during the Term of the Contract.

4. TERM.

The Term of this Contract shall be for a period of [] **years**, beginning July 1, 2014, and ending June 30, [].

5. BREACH OF THE CONTRACT.

It shall be a breach of the Contract by the Contractor and the Town may, upon notice as set forth below, terminate the Contract, in whole or in part, upon the occurrence of any one or more of the following events:

- a. Contractor fails to commence work within the time specified in the Contract Documents;
- b. Contractor fails to supply sufficient skilled workmen or suitable materials or equipment to perform the work in accordance with the Contract Documents;
- c. Contractor fails to fully and properly, and in a good and workmanlike manner, perform its obligations in accordance with the Contract Documents;
- d. Contractor discontinues or abandons, in whole or in part, the performance of the work in accordance with the Contract Documents;

- e. Contractor fails to make prompt payments to its subcontractors, if any;
- f. Contractor becomes insolvent, is adjudged bankrupt, or commits any act of bankruptcy or insolvency, including the voluntary filing of a petition for bankruptcy protection, or in the event an involuntary petition for bankruptcy is filed against the Contractor, the involuntary petition is not discharged within 90 days;
- g. If a trustee or receiver is appointed for the Contractor or any of the Contractor's property;
- h. Contractor allows any final judgment to stand against him unsatisfied for a period of 10 days;
- i. Contractor makes an assignment for the benefit of creditors;
- j. Contractor fails to comply with any reasonable directive of the Contract Administrator or Town, which directive is properly issued in accordance with the Contract Documents;
- k. Contractor utilizes trucks or containers containing Waste not collected pursuant to these Contract Documents; or
- l. Contractor fails to comply in any way with any of the terms and obligations set forth in the Contract Documents.

6. NOTICE, HEARING & TERMINATION.

6.1 Before the Contract shall be declared terminated, the Town shall give notice to Contractor and the Contractor's Surety setting forth the nature of the breach, a demand that the breach be cured, and the time and place of a hearing before the Mayor and Council or their designee, which hearing shall be held on a date that is not sooner than seven (7) days after the giving of such notice. Following the hearing, the Town may, in its sole discretion, terminate the Contract in whole or in part.

6.2 In the event that the Town terminates the Contract in whole or in part, Contractor shall cease performing the Contract in accordance with a Resolution of the Town. The Town may, in its sole discretion, (1) direct the Surety to perform the Contractor's obligations in accordance with the Contract; (2) enter into an agreement for the completion of the Contract according to the terms and provisions thereof with another contractor; (3) utilize such other methods as in the opinion of the Mayor and Council, will be required for the completion of the Contract in an acceptable manner, including, without limitation, completion of the work by the Town.

6.3 When any particular part of the work under the Contract Documents is being performed by Town, by contract or otherwise, Contractor agrees to continue the remainder of its obligations under the Contract Documents, and Contractor will not interfere with Town or its contractor.

6.4 Nothing in this section shall restrict the right of Town to act in an emergency and take immediate action which may be required to provide continued Solid Waste and Recyclable Materials Collection services in the event of a breach or anticipatory breach by Contractor.

6.5 Where Contractor's services have been terminated by Town, such termination shall not affect any rights Town has or may have in the future against Contractor or the Surety. Any retention or payment of monies due to Contractor by the Town will not release Contractor or Surety from any liability.

6.6 Any costs and expenses incurred by Town due to or arising out of Contractor's failure to perform its obligation pursuant to the Contract Documents, will be deducted from any monies due to Contractor, or which may thereafter become due to Contractor. If the costs and expenses exceed the sum payable to Contractor under the Contract, then Contractor and the Surety shall be liable and shall pay to Town the amount of such excess.

7. REMEDIES

7.1 LIQUIDATED DAMAGES.

The parties recognize that in many instances when there is a breach of the Contract by Contractor, the actual damages (including revenue losses and general and administrative costs) incurred by Town will be difficult or impossible to determine. Accordingly, Contractor shall pay Town as liquidated damages, and not as a penalty, and/or the Town may deduct from any amount then due to the Contractor the following amounts for the following breaches of the Contract:

- a. For failure to collect Solid Waste or Recyclable Materials on any collection day, Contractor shall pay to Town the sum of \$10,000 for each day in which the failure continues; plus the sum of \$1,000 per day for each vehicle hired or used by Town for the purpose of performing the Solid Waste or Recyclable Materials collection service which Contractor has failed to perform; plus the sum of \$200 per day for each person used or employed by Town, including Town employees assigned to the performance of this service.
- b. For failure to substantially collect Solid Waste or Recyclable Materials on any one collection day, Contractor shall pay to Town the sum of \$5,000 for each day in which the failure continues; plus the sum of \$1,000 per day for each vehicle hired or used by the Town for the purpose of performing the Solid Waste or Recyclable Materials collection service which Contractor has failed to perform; plus the sum of \$200 per day for each person used or employed by Town, including Town employees assigned to the performance of the service.

Contractor shall be deemed to have failed to make substantial collection as herein provided in (a) or (b) above when he shall have failed to collect and remove at least eighty five percent (85%) of the tonnage of Solid Waste or Recyclable Materials ordinarily and normally collected and removed on each collection day. For the purpose of this subsection, the Contract Administrator's estimate of the percentage of Solid Waste or Recyclable Materials collected shall be binding and conclusive on Contractor.

- c. For failure to provide collection services to any individual Collection Source entitled to any of the collection services pursuant to the Contract Documents, or for failure to collect from any Town litter container, Contractor shall pay Town the sum of \$100 for each such failure.
- d. For failure to properly return containers to the curb, Contractor shall pay Town one-hundred (\$100) dollars for each such failure.
- e. For failure to collect dead animals, Contractor shall pay Town the sum of \$200 for each such failure.
- f. For failure to repair or replace an individual Collection Source's damaged waste containers or covers, or repay an individual Collection Source for damaged waste containers or covers, when the damage was caused by Contractor, its agents or employees, Contractor shall pay Town the sum of \$50 from which sum Town shall reimburse the claimant up to \$50.
- g. For failure to maintain telephone service or a properly staffed office during the required hours as required by the Contract Documents, Contractor shall pay Town the sum of \$100 for each hour of such violation.
- h. For using vehicles and equipment which are not in good working order and which Contractor has failed to repair or properly maintain for a period of 48 hours after receipt of notice from the Contract Administrator of demand that the vehicle or equipment be repaired or replaced for the purpose of maintaining adequate and sanitary collection service pursuant to the Contract Documents, Contractor shall pay Town the sum of \$200 per day for each vehicle or piece of equipment used in violation of the Contract Administrator's demand.
- i. For failure to repair, replace or pay Town within seven (7) days for any damaged Town litter container or liner insert, when the damage was caused by Contractor, its agents or employees, Contractor shall pay Town the sum of \$200 for each such failure.
- j. For failure to have vehicles equipped with a broom and shovel, Contractor shall pay Town the sum of \$100 for each such failure.

- k. For Contractor, its employees or agents, soliciting gratuities of any kind for work in connection with the collection service required by the Contract Documents, Contractor shall pay the Town the sum of \$500 for each such incident.
- l. For failure to immediately clean any spillage from Contractor's vehicles or from Waste Containers during collection activities, Contractor shall pay Town the sum of \$100 for each such incident.
- m. For mixing in the same truck any Bulky Trash, White Goods/Scrap Metals and/or any Recyclable Materials, Contractor shall pay Town the sum of \$1,000 for each such incident.
- n. For failure to start the collection day with empty trucks, if the trucks are filled with Waste or materials that are not normally collected pursuant to the Contract Documents, Contractor shall pay Town the sum of \$5,000 for each such incident.
- o. For collecting, mixing, hauling or tipping in the same truck used for the collection of Waste in the Town, any Solid Waste, Recyclable Material, refuse, bulky trash or other items from any other town, location, person, or business which is not a Collection Source pursuant to the Contract Documents, Contractor shall pay Town the sum of \$5,000 for each such incident.
- p. For failure to equip vehicles with the required GPS system, the Contractor shall pay Town the sum of \$500 per vehicle per day for each such failure. The Contractor is required to have a vehicle tracking unit installed in any vehicle that will be used to execute this Contract. The units must be installed by the current Town vendor that manages the current system. Any vehicle that is used to collect any material that does not have a tracking unit in it will not be reimbursed for any tipping fees.
- q. For failure to maintain individual dumpsters, carts, shed or other Contractor supplied containers, Contractor shall pay Town twenty-five (\$25) dollars per day for each such failure until the time that the dumpster, cart, shed or other Contractor supplied container is properly maintained.
- r. For failure of the Contractor to comply with applicable laws in connection with Solid Waste disposal, the Contractor shall pay the Town the sum of \$500 for each day in which the failure occurs.
- s. For any error or omission in any Contractor certification, the Contractor shall pay the Town the sum of two hundred (\$250) dollars for each such error (each name or certification shall be considered a separate basis for damages).

7.2 ASSESSMENT OF LIQUIDATED DAMAGES.

The Contract Administrator shall assess liquidated damages in connection with the foregoing provisions and shall give notice to Contractor of the damages assessed and the basis for said

liquidated damages. Contractor may, within 10 days of said notice, request in writing an opportunity to be heard by the Contract Administrator. Following said hearing, the Contract Administrator will make a final determination regarding the liquidated damage assessment.

7.3 PAYMENT OF LIQUIDATED DAMAGES SHALL NOT CONSTITUTE A DEFENSE.

The assessment or payment of any liquidated damages shall not constitute a defense to Contractor nor an election of remedies by Town, nor an estoppel against Town, nor prevent Town from terminating the Contract for breach hereof.

7.4 CUMULATIVE REMEDIES.

No remedy provided within the terms of the Contract Documents shall be deemed to preclude Town from taking any other action, but on the contrary, shall be deemed to be a remedy in addition to any and all other legal or equitable remedies permissible by law.

8. CONTRACT ADMINISTRATOR.

Unless otherwise determined by the Mayor and Council, the Superintendent of Public Works shall be the Contract Administrator. In addition to those responsibilities expressly delegated to the Contract Administrator elsewhere in the Contract Documents, the Contract Administrator shall:

- a. Determine the standard of service to be provided in accordance with the Contract Documents;
- b. Answer all questions related to the service that must be provided pursuant to the Contract Documents; and
- c. Make all initial determinations on interpretation of the Contract Documents with respect to the day to day service to be provided, which shall be binding upon Contractor until said determination can be appealed pursuant to the terms of the Contract Documents.

9. INDEPENDENT CONTRACTOR.

Contractor's relationship to Town shall at all times be that of an independent contractor. The method and manner in which Contractor's services hereunder shall be performed shall be determined by Contractor, in its sole discretion, and Town will not exercise control over Contractor or, its employees except insofar as may be reasonably necessary to ensure performance and compliance with the Contract Documents. Except as provided in the Contract Documents, the employees, methods, equipment and facilities used by Contractor shall at all times be under its exclusive direction and control. Nothing in this Contract shall be construed to designate Contractor, or any of its employees, as employees or agents of Town.

10. NOTICE.

Any notice, request or other communication to either party by the other concerning the terms and conditions of this Contract, shall be in writing and shall be deemed given when said notice is either mailed by certified mail, sent by Federal Express, UPS, Airborne, or other nationally recognized overnight delivery service, or telecopied to the addresses or facsimile numbers indicated below:

If to Contractor:

Facsimile No. _____

If to TOWN:

Kearny Town Clerk
Town Hall
402 Kearny Avenue
Kearny, New Jersey 07032
Facsimile No. _____

With a copy to:

Castano Quigley, LLC
155 Passaic Avenue, Suite 340
Fairfield, New Jersey 07004
Facsimile No. 973-808-8480

11. TAXES, UNEMPLOYMENT INSURANCE AND RELATED ITEMS.

Contractor hereby accepts full and exclusive responsibility for the payment of any and all contributions or taxes, or both, for any unemployment insurance, medical and old age retirement benefits, pensions, and annuities now or hereinafter imposed under any law of the United States or any state, which are measured by the wages, salaries or other remuneration paid to persons employed by Contractor on the work covered by this Contract or in any way connected therewith; and Contractor shall comply with all administrative regulations and rulings thereunder with respect to any of the aforesaid matters; and Contractor shall reimburse Town for any of the aforesaid contributions or taxes, or both, or any part thereof, if by law Town may be required to pay same or any part thereof.

12. ASSIGNMENT OF CONTRACT.

Contractor shall not assign, transfer, convey or in any other manner dispose of this Contract or its obligations hereunder, nor shall it in any manner dispose of its right, title or interest in or to the Contract or any part thereof, or assign by Power of Attorney or other instrument any of the monies due or to become due under this Contract unless Town consents by resolution of the Mayor and Council.

13. MULTI-YEAR CONTRACT.

This Contract is subject to the provisions of N.J.S.A. 40A:11-15 relating to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, and the Town shall have the right to terminate this Contract as of July 1 in each year during the Term of this Contract if funds are not available or appropriated. For purposes of this paragraph, the total bid for the [three] years shall be divided by [three] to yield an annual Contract amount.

14. BINDING UPON SUCCESSORS.

This Contract shall be binding upon the successors, heirs, legal representatives, administrators and executors of the Contractor.

15. BUSINESS RECORDS.

Contractor's documents and records related to this Contract shall be subject to inspection by Town officials at any reasonable time.

16. PROVISIONS MANDATED BY APPLICABLE LAW

- a. The Contractor shall maintain telephone service attended by an employee of the Contractor during scheduled hours of collection, on all collection days. The Contractor's telephone number shall be in service prior to the commencement of service and the Town shall be responsible for publishing the number in the same manner it publishes the telephone numbers of all providers of governmental services.
- b. The Contractor shall promptly and properly attend to all complaints of residents and all notices, directives and orders of the Contract Administrator within 24 hours of the receipt of same. The Contractor shall keep a record of complaints and the date and time of the responses to such complaints, as well any action taken. A written summary of all complaints and responses shall be provided to the Contract Administrator each month.
- c. The Contractor shall ensure that no agent or employee shall solicit or be permitted to receive gratuities of any kind for any of the work or services provided in connection with the contract.
- d. All collection vehicles shall be compaction type, completely enclosed and watertight. Subject to the prior approval of the Contract Administrator, the Contractor may employ equipment other than compaction type vehicles on streets whose width precludes the use of such vehicles. The Contractor shall specify whether the vehicles are side, front or rear loading.

- e. The Contractor shall maintain all collection vehicles in good working order and shall ensure that no collection vehicle is used in such a manner that littering and spillage of solid waste occurs. The Contract Administrator may inspect the Contractor's collection vehicles during the term of the contract to ensure that the collection vehicles are being operated and maintained in accordance with the requirements of this subsection. The Contractor shall comply with all reasonable requests to inspect collection vehicles and shall comply with the Contract Administrator's requests relative to the maintenance, cleanliness and repair of the collection vehicles. Failure to respond to reasonable requests to inspect shall constitute a breach of contract and may result in termination of the contract. Upon Contractor's failure to respond to reasonable requests regarding maintenance, cleanliness and repair of a collection vehicle, the Contract Administrator shall have the right to order the non-conforming collection vehicle out of service. In such event, the Contractor shall provide, at its sole cost and expense, a conforming vehicle.
- f. The affirmative action provisions of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 are incorporated herein by reference. Contractor shall comply with all affirmative action provisions. The standard provisions may be attached to the Contract as an exhibit.
- g. In the event of any increases or decreases in Solid Waste disposal costs resulting from:
 - i. compliance with an order issued by the New Jersey Department Environmental Protection directing the Solid Waste to be disposed at a facility other than the facility previously utilized by the person to whom the contract has been awarded; or
 - ii. lawful increases or decreases in the rates, fees or charges imposed on the disposal of solid waste at the facility utilized by the person to whom the contract has been awarded; then

This Contract may be cancelled by the Town on sixty (60) days notice unless the parties re-negotiate the terms to reflect the foregoing cost increases or decreases.

- h. Contractor shall at all times comply with Town Ordinance No. 2007-(O)-41, as amended, requiring the Contractor to pay living wages and provide health benefits to its employees.
- i. Contractor shall comply with the Diesel Retrofit Law for each vehicle to be used in performing the terms of this Contract. The contractor shall ensure at all times that any vehicle used in execution of this contract is in compliance with the Diesel Retrofit Law (N.J.S.A. 26:2C-8). In lieu of retrofitting their vehicles, Contractor can comply with the Law by replacing their older vehicles with vehicles that have a 2010 or newer engine or vehicles powered by gasoline,

propane, natural gas or electric. The Contractor shall insure that all vehicles comply with inspection requirements and idling limits set forth at N.J.A.C. 7:27-14. Contractor shall provide training for all vehicle drivers on the idling limits.

17. GENERAL PROVISIONS.

- a. **Modifications:** This Contract or any part thereof may not be modified, except by written agreement of the parties, signed by the duly authorized officers or agents of the parties.
- b. **No Waiver:** No omissions or delay by either party to this Contract at any time to enforce any right or remedy reserved to it, or to require performance of any of the terms of this Contract, shall be a waiver of any such right or remedy to which either party is entitled, nor shall it in any way affect the right of either party to enforce such provisions thereafter.
- c. **Applicable Law:** This Contract shall be governed by and construed in accordance with the laws of the State of New Jersey.
- d. **Severability:** If any provisions of this Contract shall be held to be invalid, illegal or unenforceable, the validity of all other provisions hereof shall in no way be affected thereby.
- e. **Force Majeure:** In the event that performance by either party of any of its obligations or undertakings under this Contract shall be interrupted or delayed by any occurrence not occasioned by the conduct of either party, whether such occurrence be an act of God such as lightening, earthquakes, floods or other like causes, the common enemy, the result of war, riot, civil commotion, sovereign conduct, explosion, fire or the act or conduct of any person or persons not a party to or under the direction or control of a party hereto, then such performance shall be excused for such period of time as is reasonably necessary after such occurrence to remedy the effect thereof. A strike or other work action by Contractor employees shall not be deemed a force majeure event.
- f. **Entire Agreement:** This Contract, the Specifications and the Bid Proposal submitted by the Contractor incorporated herein constitutes the entire agreement between the parties and supersedes all previous agreements and understandings relating to the services required under this Contract. In the event of any conflict or inconsistency between this Contract, the Specifications or Bid Proposal, the provision that grants the greater right or benefit to the Town shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed by their duly authorized representatives as of the date first set forth above.

WITNESS:

(Contractor)

(Signature)

By: _____
(Authorized Signatory)

(Printed Name)

(Print Name of Authorized Signatory)

Date: _____

(Title of Authorized Signatory)

WITNESS:

TOWN OF KEARNY

(Signature)

By: _____
Alberto G. Santos
Mayor

(Printed Name)

Date: _____

7.2 RESERVED

7.3. VEHICLE DEDICATION AFFIDAVIT

AFFIDAVIT

STATE OF NEW JERSEY }
COUNTY OF } SS: [PROJECT NAME]

I, [NAME OF AFFIANT] , am the [IDENTIFY RELATIONSHIP TO BIDDER: OWNER, PARTNER, PRESIDENT, OR OTHER CORPORATE OFFICER] of the [NAME OF BIDDER] , and being duly sworn, I depose and say:

All statements contained in this affidavit are true and correct and made with full knowledge that the State of New Jersey and the Mayor and Council rely upon the truth of the statements contained in this affidavit and in said Bid Proposal in signing the contract for the said project.

At all times during the performance of the collection contract, I agree to commit, for use only in the in the Town of Kearny, the number of collection vehicles reasonably calculated to ensure safe, adequate and proper service. I further warrant that in the event that dedication of vehicles for use only in the Town of Kearny is not feasible, that the Town of Kearny will not be responsible for disposal costs for waste generated outside the Town of Kearny.

I also understand and agree that failure to comply with the representations contained herein shall be cause for breach of contract and will entitle the Town of Kearny to damages arising therefrom.

Name of Firm or Individual

Title

Signature

Date

Subscribed and sworn to before me this
_____ day of _____, 20____.

Notary Public of

My Commission expires _____, 20____.

7.4. (RESERVED)

STATE OF NEW JERSEY }

I, [NAME OF AFFIANT] , of the City of _____ in the State [Commonwealth] of _____ being of full age and duly sworn according to law, on my oath depose and say that:

I am employed by the firm of [NAME OF BIDDER], the bidder submitting the Bid Proposal for the above named project, in the capacity of [TITLE OF AFFIANT], and I have executed the Bid Proposal with full authority to do so. Further, the bidder will comply with the provisions of Public Law 1975, Chapter 127, and shall require all subcontractors to comply with the provisions of Public Law 1975, Chapter 127.

Name of Firm or Individual	Title
----------------------------	-------

Signature	Date
-----------	------

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public of _____

My Commission expires _____, 20____.

ATTACHMENT #1

Procurement and Service Contract--Mandatory Language

P.L. 1975, C.127 (N.J.A.C. 17:27)

MANDATORY AFFIRMATIVE ACTION LANGUAGE

PROCUREMENT, PROFESSIONAL AND 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, 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 status, 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 P.L. 1975, c.127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.S.A. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time.

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 statutes 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).

ATTACHMENT #2

Town of Kearny-MUNICIPAL DATA

RESIDENTIAL SOURCES:

Single and Multi family	7,107
Apartment/Condominiums	137
[OTHER]	10
Total	7,254

Containers [SEE SECTION 5.4 FOR VOLUME OR WEIGHT LIMITS, TYPE,
OTHER RELEVANT INFORMATION]

COMMERCIAL SOURCES:

Total	490
-------	-----

Containers [SEE SECTION 5.4 FOR VOLUME OR WEIGHT LIMITS, TYPE,
OTHER RELEVANT INFORMATION]

INSTITUTIONAL SOURCES:

Schools	15
[OTHER]	50
Total	65

Containers [SEE SECTION 5.4 FOR VOLUME OR WEIGHT LIMITS, TYPE,
OTHER RELEVANT INFORMATION]

MUNICIPAL SOURCES:

Municipal buildings	28
Litter baskets	125
[OTHER]	0
Total	153

Containers [SEE SECTION 5.4 FOR VOLUME OR WEIGHT LIMITS, TYPE,
OTHER RELEVANT INFORMATION]

POPULATION: The 2010 Census listed Kearny's population at 40,684. Kearny's population has remained relatively stable since that time, and that trend is expected to continue during the term of this Contract.

AREA: 8.87 SQUARE MILES

TOTAL ROAD MILES: APPROXIMATE MILEAGE OF STATE, COUNTY AND/OR
LOCAL ROADS = 66.65 MILES

TONNAGE REPORT (2013 YEAR):

• Solid Waste:		
Type 10 & Type 13		17,623.56 TONS
Type 23, 25, & 27		<u>n/a</u>
TOTAL		17,623.56 TONS
• Recyclable Materials:		
Mixed Paper	:	1,302.29 TONS
Commingled Containers:	:	1,915.41 TONS
Single Stream	:	13.21 TONS
White Goods/Scrap Metal	:	<u>19.44 TONS</u>
TOTAL	:	3,250.35 TONS

ATTACHMENT #3

“KEARNY ORDINANCE 2007-(O)-41 AS AMENDED”

**TOWN OF KEARNY
2007-(O)-41**

**AN ORDINANCE ESTABLISHING MINIMUM EMPLOYMENT
STANDARDS TO ENCOURAGE EMPLOYERS PROVIDING
SERVICES TO THE TOWN OF KEARNY TO PAY LIVING WAGES
AND AFFORD EMPLOYEES HEALTH BENEFITS**

WHEREAS, the State of New Jersey has amended N.J.S.A. 34:11-66a4 relative to the establishment of certain minimum wage rates; and

WHEREAS, by its terms, N.J.S.A. 34:11-66a4 does not prohibit any political subdivision of the State (including municipalities) from adopting regulations or rules, or entering into agreements, establishing standards for vendors, contractors and subcontractors of the political subdivision regarding issues of wage rates and greater protections of the rights to the employees of such vendors, contractors and subcontractors; and

WHEREAS, it is important to the health and welfare of residents of the Town of Kearny that all working people are paid a wage that enables them to lift their families out of poverty; and

WHEREAS, the Mayor and Council of the Town of Kearny declares that it is the policy of the Town to promote living wages and benefits that allow working families in their community to meet basic needs; and

WHEREAS, the Town of Kearny awards taxpayer funded contracts to businesses to provide services to the public and to the Town government; and

WHEREAS, public costs to all taxpayers are likely to increase as companies that provide health benefits either drop those benefits or are replaced by companies that do not, because more working families will be forced to obtain necessary care from public health clinics, public hospitals, emergency rooms, and publicly funded programs such as Medicaid; and

WHEREAS, by requiring businesses benefiting from taxpayer funds through contracts with the Town to promote the creation of jobs which pay a living wage and provide reasonable health benefits to their employees will increase the ability of residents of the Town of Kearny and throughout the County of Hudson and State of New Jersey to attain self-sufficiency, decrease economic hardship and reduce the need for taxpayers to fund social services to provide supplemental support for employees of local and state business.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Kearny, Hudson County, New Jersey that the Revised General Ordinances be and here by are amended and supplemented as follows:

SECTION 1. Living Wage and Health Benefit Requirement.

The following minimum pay and benefit requirements must be complied with by contractors, subcontractors and vendors who provide work or services under a contract awarded by the Town of Kearny.

SECTION 2. Definitions.

For purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) "Town" means Town of Kearny.
- (b) "Company" means any natural person, corporation, partnership, limited liability company, joint venture, sole proprietorship, associations, trust or any other entity.
- (c) "Contractor" means any company that performs work or services under a contract awarded by the Town of Kearny, including but not limited to janitorial or security services, on premises owned, occupied, used, or controlled by the Town of Kearny.
- (d) "Living Wage" means an amount equal to 150% of the Federal Minimum Wage at the time a contract is awarded or renewed.
- (e) "Subcontractor" See definition of Contractor.
- (f) "Employee" means any person who performs work at least twenty (20) hours of work per week for a contractor, subcontractor or vendor, including full-time, part-time, temporary, or seasonal workers, independent contractors, contracted workers, contingent workers, and persons made available to work through the services of a temporary services, staffing or employment agency or similar entity.
- (g) "Vendor" See definition of Contractor

SECTION 3. Living Wage and Benefits Rate.

Employees who work at least twenty (20) hours per week for any contractors, subcontractors and vendors providing services under a contract awarded the Town to be performed at various Town work sites and/or on the site of the contractor, subcontractor or vendor shall receive the following minimum pay and benefits:

- (a) An hourly rate of pay one hundred and fifty percent (150%) of the Federal Minimum Wage at the time the contract is awarded or renewed; and

- (b) Medical benefits shall be provided by the employer at the employer's expense for each employee within 60 days of hiring. At a minimum, the benefits provided shall be basic medical insurance coverage, which shall include a Health Maintenance Organization Plan with no deductible; a hospital indemnity benefit and a doctor's office indemnity benefit.

SECTION 4. Applicability and Compliance.

(a) The terms and conditions of this Ordinance shall not apply to any contract authorized prior to or during the period of any contract renewal included in a contract authorized prior to the effective date of this Ordinance. Application of the terms and conditions of this Ordinance shall be prospective only.

(b) Compliance with the requirements of this Ordinance shall be waived for any contractor, subcontractor and vendor currently under contract with the Town of Kearny, if the Ordinance provisions vary with the terms of an existing bona fide collective bargaining agreement in place at the date of the enactment of this Ordinance, provided that all parties to the existing bona fide collective bargaining agreement in place at the date of the enactment of this Ordinance agree to a waiver of the application of this Ordinance. However upon expiration of the term of the collective bargaining agreement, all provisions of this Ordinance shall apply.

(c) Contractors, subcontractors or vendors employing ten (10) or less employees shall be exempt from compliance with this Ordinance, providing that the contract with Town is not in excess of \$500,000.00 annually.

SECTION 5. Notice and payroll records.

- (a) The Town shall advise all contractors, subcontractors and vendors of the requirements of this Ordinance prior to the award of a contract.
- (b) Contractors, subcontractors and vendors who enter into contract with the Town shall allow the Town access to payroll and benefits records to monitor compliance with the requirements of this Ordinance, and shall permit an employee or an employee's designated representative to inspect the employer's payroll and benefits pertaining to that employee. Where a contractor, subcontractor or vendor does not maintain or retain adequate records documenting wages paid or benefits, or does not allow the Town reasonable access to such records, there shall be a rebuttable presumption that the contractor, subcontractor or vendor has not paid the requisite hourly compensation. This presumption may be overcome if the contractor, subcontractor or vendor has paid the requisite hourly compensation.

SECTION 6. Implementation and Enforcement.

- (a) The Town may interpret, implement and enforce this Ordinance, including issuing regulations and administrative findings of violations and instituting legal actions to enforce administrative findings. Any regulations promulgated by the Town shall have the force and effect of law and may be relied on by employers, employees and other parties to determine their rights and responsibilities under this Ordinance.

- (b) No contractor, subcontractor or vendor or other person shall discharge or take any other adverse action against any person in retaliation for asserting any claim or right under this Ordinance, for assisting any other person in doing so, or for informing any person about their rights. Taking adverse action against a person within ninety days of a person's engaging in any of the foregoing activities shall raise a presumption that such action was retaliation, which may be rebutted by clear and convincing evidence that such action was taken for other permissible reasons.
- (c) Any employee harmed by a contract, subcontractor or vendor's violation of this Ordinance may bring an action against the contractor, subcontractor and/or vendor in any court of competent jurisdiction and, upon prevailing, shall be awarded any appropriate legal or equitable relief, including any compensation required under this ordinance that was not timely paid and an additional and amount equal amount as liquidated damages, and shall be awarded reasonable attorney's fees and costs of suit. Any investigation of an employer by the Town or other law enforcement officer shall not bar an employee from bringing an action.
- (d) A contractor, subcontractor or vendor that violates this Ordinance may also be required to pay a civil penalty of an amount set by the Town or a court sufficient to deter future violations, but not less than \$200 per violation. Each employee and each week that a contractor, subcontractor or vendor fails to pay the total hourly compensation required by this ordinance or retaliates against an employee or other person in violation of this Ordinance shall constitute a separate violation. Civil penalties shall be retained by the Town and used to finance activities to enforce this Ordinance.
- (e) The Town shall make in information regarding all contractor, subcontractor and vendor compliance with this Ordinance publicly available during the term of any contract with the Town.

Repealer: All Ordinances and parts thereof conflicting herewith be, and the same hereby are, repealed.

Severability: If any section, paragraph subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed to be valid and effective.

Effective Date: This Ordinance shall be effective upon passage and publication as required by law.

I certify that the foregoing ordinance was introduced by the Council on first reading on June 12, 2007 duly published according to law, and passed on second reading and final passage on _____, 2007.

JILL E. WALLER
ACTING TOWN CLERK

I hereby approve the foregoing Ordinance this ____ day of _____, 2007.

	INTRODUCED	SECONDED	AYE 1ST	AYE 2ND	NAY 1ST	NAY 2ND	ABSTAIN 1	ABSTAIN 2	ABSENT 1ST	ABSENT 2ND
SHERRY										
DOYLE										
PETTIGREW										
LANDY										
ARCE										
MC CURRIE										
ECKEL										
KRUSZNIS										
SANTOS										

ALBERTO SANTOS, MAYOR

**TOWN OF KEARNY
COUNTY OF HUDSON
2009 – (O) – 08**

**ORDINANCE AMENDING ORDINANCE NO. 2007-(O)-41 ESTABLISHING
MINIMUM EMPLOYMENT STANDARDS TO ENCOURAGE EMPLOYERS
PROVIDING SERVICES TO THE TOWN OF KEARNY TO PAY LIVING
WAGES AND AFFORD EMPLOYEES HEALTH BENEFITS**

Ordinance No. 2007-(O)-41 of the Town of Kearny, adopted on second reading on June 27, 2007, shall be and hereby is amended as follows:

1. Section 3(b) of the Ordinance shall be amended to read in its entirety as follows:

“(b) Medical benefits shall be provided by the employer at the employer’s expense for each employee within 60 days of hiring. At a minimum, the benefits provided shall be basic medical insurance coverage, which may include a Health Maintenance Organization Plan with no deductible; a hospital indemnity benefit and a doctor’s office indemnity benefit.”

I certify that the foregoing ordinance was introduced by the Council on first reading on February 13, 2009, duly published according to law, and passed on second reading and final passage on February 26, 2009.

**JILL E. WALLER
ACTING TOWN CLERK**

I hereby approve the foregoing Ordinance this 26th day of February, 2009.

COUNCIL	INTRODUCED	SECONDED	AYE 1ST	AYE 2ND	NAY 1ST	NAY 2ND	ABSTAIN 1	ABSTAIN 2	ABSENT 1ST	ABSENT 2ND
SHERRY			X	X						
DOYLE		X	X	X						
PETTIGREW				X					X	
LANDY			X	X						
ARCE			X	X						
MC CURRIE	X		X	X						
ECKEL			X	X						
KRUSZNIS			X	X						
SANTOS			X	X						

ALBERTO G. SANTOS, MAYOR