

RESOLUTION

WHEREAS, the Township of West Orange owns and operates a recycling center located at 570 Mt. Pleasant Avenue, Township of West Orange (the "Site"); and

WHEREAS, the Site operates pursuant to an exemption issued by the State of New Jersey Department of Environmental Protection ("DEP"); and

WHEREAS, pursuant to Request for Proposal, the Township has entered into a License Agreement (the "Agreement") with Reliable Wood Products, LLC of One Caven Point Avenue, Jersey City, New Jersey (the "Reliable"); and

WHEREAS, the agreement requires Reliable to operate the Site in compliance with all applicable federal, state, county and Township regulations, including the New Jersey Department of Environmental Protection ("NJDEP") Regulations; and

WHEREAS, Reliable agreed to a liquidated damages provision entitling the Township to assess against Reliable damages of \$5,000 for each incident that the Township's Environmental Compliance Officer found that Reliable received vegetative material in excess of the amount permitted under the limited NJDEP approval of the Recycling Center, which is 7,500 cubic yards of unprocessed material and 7,500 cubic yards of processed material (See N.J.A.C. 7:26A-1.4(a)(3)); and

WHEREAS, in August 2011, the Township and surrounding areas were subject to Hurricane Irene; and

WHEREAS, in October 2011, the Township and surrounding areas were subject to a massive ice storm which created various quantities of debris and tree items; and

WHEREAS, on October 29, 2012, the Township and surrounding areas were subject to Hurricane Sandy; and

WHEREAS, these three (3) major weather events caused the Site to receive a significant amount of vegetative material in excess of what is allowed by the NJDEP; and

WHEREAS, due to the severe weather events, the NJDEP allowed the Site to temporarily take on vegetative material in excess of what is allowed under N.J.A.C. 7:26A-1.4(a)(3); and

WHEREAS, The NJDEP required the Site to have all of the material ground into a first grind state by March 1, 2012 and have all storm related materials removed no later than July 1, 2012; and

WHEREAS, notwithstanding various reminders by Wayne DeFeo, the Township Environmental Compliance Officer, and attempts by Reliable, the deadlines were not achieved; and

WHEREAS, Reliable has since spent approximately \$5,592,000 to purchase equipment to enable it to process large quantities of vegetative material faster in an attempt to avoid having excess material on site, and all such equipment is available to be used at the Site; and

WHEREAS, Reliable is now in compliance with the amount of material permitted under the limited NJDEP exemption for the Site; and

WHEREAS, in order to amicably resolve the issues above without the need for litigation, both the Township and Reliable intend to memorialize the release and resolution of these issues by execution of a Stipulation of Settlement in the form annexed hereto as **Attachment "A"** (the "Stipulation"); and

WHEREAS, pursuant to the Stipulation, Reliable has agreed to pay to the Township \$5,000.00 in consideration of the non-compliance described herein;

NOW, THEREFORE BE IT HEREBY RESOLVED, by the Township Council of the Township of West Orange that the Township approves the settlement of Reliable's non-compliance upon payment of \$5,000 plus any additional fees and expenses due to the Environmental Compliance Officer; and it is further

RESOLVED that notice of Resolution shall be published and available in the Clerk's Office for reasonable inspection in accordance with applicable law.

Karen J. Carnevale
Township Clerk

Susan McCartney
Council President

Adopted: August 20, 2013