



"NJDEP PERMITTED FACILITY"

Reliable Wood Products INC

Specializing In Municipal & Commercial Wood Recycling

EUGENE J. CIARKOWSKI, ESQ.

EXECUTIVE VICE PRESIDENT - OPERATIONS

1 CAVEN POINT AVENUE

JERSEY CITY, N.J. 07305

ECIARKOWSKI@RELIABLEWOODPRODUCTS.COM

TEL: 201-333-5244

EXT. 139

FAX: 201-333-6712

STIPULATION OF SETTLEMENT

The Parties

This Stipulation of Settlement (hereinafter referred to as the "Settlement") is made on this _____ day of July 2013 between Reliable Wood Products, LLC ("Reliable"), having an address at 1 Caven Point Avenue, Jersey City, NJ 07305, and the Township of West Orange (the "Township"), a Municipal Corporation of the State of New Jersey having its principal location at 66 Main Street, West Orange, New Jersey 07052 (collectively, the "Parties"); and whereas, in furtherance of the Settlement, the Parties hereby represent, warrant, state and agree:

Witnesseth

WHEREAS, pursuant to a public bidding process the Parties entered into an agreement whereby Reliable would operate the Township recycling center, located at 590 Mount Pleasant Avenue, West Orange, NJ 07052 ("Recycling Center"), in compliance with all applicable federal, state, county and Township regulations, including the New Jersey Department of Environmental Protection ("NJDEP") Regulations, for a three (3) year contract period commencing October 1, 2008 with options to renew for two additional one (1) year periods (the "Agreement"); and

WHEREAS, the Agreement was renewed for the October 1, 2011 through September 30, 2012 optional term, and again for the October 1, 2012 through September 30, 2013 optional term; 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 or around August 2011 through October 2011, the Township was affected by certain severe weather events, including Hurricane Irene, causing the Recycling Center 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 Recycling Center 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 Recycling Center 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 the Township Environmental Compliance Officer and attempts by Reliable, the deadlines were not achieved; and

WHEREAS, the Township Environmental Compliance Officer found that, from July 9, 2012 to October 6, 2012, Reliable missed several deadlines to bring its operation of the Recycling Center into compliance with the vegetative material permitted under the limited

NJDEP approval of the Recycling Center, and was thus in non-compliance for at least seventy seven (77) days; 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 Recycling Center; and

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

WHEREAS, the Parties have agreed to amicably resolve the issues above without the need for litigation, and to hereby memorialize the settlement between the parties by execution of this Stipulation of Settlement; and

NOW, THEREFORE, in consideration of the mutual benefits conferred in this Settlement, the premise of this Settlement, the consideration provided for herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions herein contained, the Parties agree as follows:

1. **Settlement Amount.** Reliable shall pay to the Township a total of Five Thousand (\$5,000) Dollars (the "Settlement Amount"), in consideration of the violations as set forth in this Agreement. Additionally, to the extent that it has not already done so, Reliable shall pay all fees and expenses of the Environmental Compliance Officer for all inspection services related to the violations as set forth above. The Settlement Amount shall be paid in accordance with the terms hereof. All monies shall be remitted to the Township c/o John Gross, Chief Financial Officer, Municipal Building, 66 Main Street, West Orange, New Jersey 07052 no later than 30 days after the Township Council approves and all parties execute this Stipulation of Settlement. To the fullest extent necessary, the Township may designate its Chief Financial Officer an Attorney-in-Fact to execute any joint check or other disbursement to satisfy the Settlement Amount. To the extent necessary, the Township may deduct or offset the Settlement Amount from any monies due to Reliable.

2. **Scope of Settlement.** The Settlement Amount is paid by Reliable, to the Township, in satisfaction of liquidated damages owed to the Township by Reliable, and unexpected expenses incurred by the Township due to Environmental Compliance Officer fees and attorneys' fees in connection with the violations set forth herein. Nothing contained herein shall release Reliable from any remaining obligations under the Agreement.

3. **Waiver of Claims.** As a condition of this Settlement, Reliable hereby waives, with prejudice and in their entirety, any and all claims, counterclaims, equitable relief and defenses that have been, could be or could have been brought against the Township in connection with the Agreement.

4. **Enforceability.** Reliable's failure to pay the Settlement Amount shall be deemed an immediate default entitling the Township to file suit for the Settlement Amount, including the recovery of reasonable attorneys' fees and costs to be paid by Reliable, in connection with any such enforcement. In any such event, Reliable consents to entry of a judgment in the amount of the Settlement Amount plus reasonable attorneys' fees, costs and post-judgment interest.

5. **Choice of Law.** This Settlement shall be governed in all respects, including validity, interpretation, and effect by the laws of the State of New Jersey. The Settlement shall be dated as of the date it was last signed by any of the Parties, which date shall be incorporated on the face page of this Agreement.

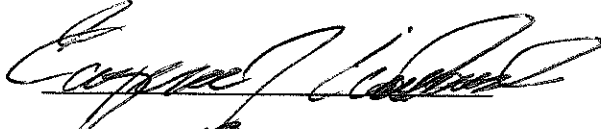
7. **Separate Counsel.** The Parties have been represented by separate counsel or had sufficient opportunity to consult with counsel. Neither of the Parties have relied upon the other Parties' counsel in executing this Settlement.

8. **Additional and Miscellaneous Terms.** The Parties represent that they relied upon the legal advice of attorneys of their own choice and that they have each had the opportunity to review this Settlement with their attorneys. The Parties further represent that the terms of the Settlement have been completely read and examined by their attorneys, and that they fully understand and voluntarily accept the stated terms. This Settlement shall be binding upon the Parties, and their agents, successors and assigns. No modifications or changes in this Settlement shall be binding unless in writing and executed by all Parties. No delay in enforcing any aspect of this Settlement shall be deemed a waiver of any rights and remedies. To the extent the Township Council fails to approve this Stipulation of Settlement, all parties reserve all rights and remedies and nothing contained herein shall be evidential for any purpose.

Signatures Follow

The foregoing terms and conditions are agreed to and stipulated by:

WITNESS:



Dated: July 18, 2013

RELIABLE WOOD PRODUCTS, LLC

By: 
Title: Regional Vice President

WITNESS:

Dated: July ____, 2013

TOWNSHIP OF WEST ORANGE

By: _____
Robert Parisi, Mayor

749466__1