

BOROUGH OF RIVER EDGE

RESOLUTION #26-138

**RESOLUTION APPROVING AN AGREEMENT WITH AFFORDABLE CARTAGE LLC
FOR THE RELEASE OF ESCROWED FUNDS FOR SOLID WASTE COLLECTION
AND DISPOSAL SERVICES IN CONSIDERATION OF RECEIPT OF AN
INDEMNIFICATION FROM AFFORDABLE CARTAGE LLC**

WHEREAS the Borough of New Milford and the Borough of River Edge entered into a Joint Purchasing Agreement for the public bidding of solid waste collection and disposal services; and

WHEREAS, as a result of the foregoing process each municipality entered into a contract with the lowest responsible bidder, Joseph Smenkowski, Inc., for a five-year contract; and

WHEREAS with each municipality's consent, Joseph Smenkowski, Inc. assigned its rights and obligations under said contracts to Affordable Cartage LLC on or about October 2024; and

WHEREAS a dispute has arisen between Joseph Smenkowski, Inc. and Affordable Cartage LLC; and

WHEREAS On March 4, 2025, a Verified Complaint was filed on behalf of Affordable Cartage, LLC against Thomas Giordano, The Estate of Gary E. Giordano (Diana Gasparano, Gary M. Giordano and Lisa Jett as Co-Administrators) and Joseph Smenkowski, Inc., trading as Galaxy Carting, bearing docket number BER-L-00045-25 ("the litigation"); and

WHEREAS Joseph Smenkowski, Inc. served upon both the Borough of New Milford and the Borough of River Edge a Notice of Garnishment and Demand for Payment of Receivables pursuant to UCC §9-404, 9-406 and 9-607, together with a Secured/Guaranteed Promissory Note, UCC-1 Financing Statement, copy of Assignment of Contract and copy of a Notice of Default and Notice of Acceleration of Payments by Joseph Smenkowski Inc. to Affordable Cartage LLC; and

WHEREAS both the Borough of New Milford and the Borough of River Edge served upon Affordable Cartage LLC a notice of receipt of the above-referenced Notice of Garnishment and Demand for Payment of Receivables and a notice that future payments due under the aforesaid contracts will be paid to Joseph Smenkowski Inc. pursuant thereto unless Affordable Cartage LLC sought judicial relief from the aforesaid garnishment; and

WHEREAS Affordable Cartage LLC responded that Affordable Cartage LLC disputes the existence of a valid UCC Financial Agreement and that there is a lawsuit between the parties presently pending in the Chancery Division; and

WHEREAS as a result of said dispute both Joseph Smenkowski Inc and Affordable Cartage were advised that the Borough of New Milford and the Borough of River Edge will hold the payments due under the contracts for solid waste collection and disposal in escrow pending a resolution between the parties or a court order directing where and to whom the payments are to be made; and

WHEREAS The Borough of River Edge and the Borough of New Milford have withheld the payment of fees owed to Affordable Cartage, LLC pursuant to their respective contracts for solid waste collection and disposal, during the pendency of the litigation; and

WHEREAS as of the date of this Agreement and pursuant to the above-mentioned contract, the Borough of New Milford owes Affordable Cartage, LLC, approximately \$308,656.29, which has been maintained in escrow during the pendency of the litigation; and

WHEREAS as of the date of this Agreement and pursuant to the above-mentioned contract, the Borough of River Edge to date owes Affordable Cartage, LLC \$312,397.82, which has been maintained in escrow during the pendency of the litigation; and

WHEREAS Affordable Cartage, LLC agrees that the amount owing for each respective contract is as identified above and seeks release all monies owed pursuant to the Contracts, as identified above, by Friday, May 15, 2026; and

WHEREAS, Affordable Cartage, LLC has agreed to indemnify and hold harmless the Boroughs of New Milford and River Edge from any and all claims, actions, costs, expenses or liabilities imposed upon, incurred, or asserted against the Borough of New Milford and/or the Borough of River Edge as a result of the release of the payments identified herein during the litigation or for any other reason

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of River Edge, Bergen County, New Jersey that the Mayor is hereby authorized and directed to execute, and the Borough Clerk to attest, an Agreement by and between the Borough of River Edge, the Borough of New Milford and Affordable Cartage LLC to release the escrowed funds being held by the Borough of River Edge to Affordable Cartage LLC in consideration for Affordable Cartage LLC indemnifying and holding harmless the Borough of River Edge from any and all claims, actions, costs, expenses or liabilities imposed upon, incurred, or asserted against the Borough of River Edge as a result of the release of the payments

identified herein during the litigation or for any other reason which shall continue until such time as the statute of limitations with respect to any claims or actions that could be brought against the Borough of River Edge, in any jurisdiction, for release of such amounts has expired. A copy of such Agreement is on file in the office of the Borough Clerk and is available for public inspection.

April 23, 2026

	Motion	Second	Yes	No	Abstain	Absent
Montisano-Koen						
Kinsella						
Malellari						
Glass						
Dhariwal						
Feffer						
Mayor Papaleo						

I hereby certify that this resolution, consisting of 3 page(s), was adopted at a meeting of the Mayor and Council of the Borough of River Edge, held on this 23rd day of April, 2026.

Anne Dodd, Borough Clerk