

**INTERLOCAL SERVICES AGREEMENT**

This Agreement made this 6<sup>th</sup> day of July 2004, by and between the **BOROUGH OF HIGHTSTOWN**, 148 North Main Street, Hightstown, NJ 08520 (the "Municipality") and the MERCER COUNTY IMPROVEMENT AUTHORITY, 640 South Broad Street, Trenton, New Jersey, 08650.

**WHEREAS**, the Mercer County Improvement Authority ("MCIA") has been designated by the Board of Chosen Freeholders ("Board") of the County of Mercer ("County") as the implementing agency for the County's Solid Waste Management Plan that the County is required to establish and maintain pursuant to the Solid Waste Management Act, N.J.S.A.13:IE-1 *et seq.*, (the "Act"); and

**WHEREAS**, on November 5, 1988, the Board adopted Ordinance No. 88-33 entitled "An Ordinance Amending the Mercer County Solid Waste Management Plan pursuant to N.J.S.A.13:1E-1 *et seq.* to include establishing the Mercer County Recycling Plan," which Recycling Plan provides for the collection and marketing of recyclable materials; and

**WHEREAS**, the Recycling Plan and Ordinance were subsequently amended by Ordinances No. 89-19 on July 25, 1989; No. 91-14 on June 11, 1991; and No. 93-11 on June 10, 1993; and

**WHEREAS**, each municipality within the County was required by Ordinances No. 88-33 and 89-19 to adopt a municipal ordinance providing for recycling within the municipality pursuant to the Statewide Mandatory Source Separation and Recycling Act by adopting of the Recycling Plan as its official municipal recycling program (the "Recycling Program") in the manner required by said County Ordinance; and

**WHEREAS**, the MCLIA has developed a program for the curbside collection of recyclable materials (the “Curbside Program”) and the Municipality wishes to participate in the Curbside Program;

**NOW, THEREFORE, IT IS** agreed by and between the MCLIA and the Municipality as follows:

#### ARTICLE I

Section 1.01. Services to be Provided. The MCLIA shall provide the Curbside Program to the Municipality. Pursuant to Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, the Act, or other applicable law, the MCLIA shall contract with a vendor (“Recycling Vendor”), which shall undertake the Curbside Program on behalf of the MCLIA, under its supervision. The Recycling Vendor shall collect acceptable recyclable materials and deliver them to a location designated by the MCLIA for processing into marketable commodities. The MCLIA shall arrange for the processing and sale of the recyclable materials, to collect the revenues from such sales, and to provide administrative, operational, legal, management, and enforcement services as necessary for the efficient operation of the Curbside Program. The Municipality shall abide by the terms of any agreement entered into between the MCLIA and the Recycling Vendor, and shall not take any action whatsoever in violation of any such agreement.

Section 1.02. Recyclable Materials. As required by the Curbside Program, the Recycling Vendor shall collect and market the following: glass food and beverage containers, metal food and beverage cans, certain plastic containers, polycoated beverage cartons, corrugated cardboard, and residential mixed paper. Depending upon the availability of markets and prices for recyclable materials, the MCLIA reserves the right to remove or add items to the

list of recyclables in the Curbside Program. The MCLIA shall determine the dates and the manner in which residents of the Municipality must place the acceptable recyclable materials at the curb or streetside for collection by the Recycling Vendor.

Section 1.03. Costs. The Municipality shall pay the MCLIA \$4,127.19 by the 15<sup>th</sup> of the month (\$49,526.00 annually). This estimated cost to each participating Municipality is calculated by deducting the Municipality's "share" of recycling revenues (from mixed paper and commingled bottles/cans) from the base contract and program administrative costs. The number of households and tonnage of waste disposed by the Municipality is used to derive the fair "share" of both program revenues and costs. In the event the MCLIA's actual monthly costs of the Curbside Program exceed the estimated costs, the Municipality shall be liable for a pro rata share of the increase, payable within 30 days of receipt of MCLIA's invoice for same. In the event the MCLIA's actual monthly costs of the Curbside Program are less than the estimated costs, the MCLIA shall credit the Municipality for its pro rata share of the savings toward the Municipality's next invoice from the MCLIA.

Section 1.04. Hold Harmless. The parties agree to hold each other harmless for any loss, damage or claim incurred or asserted resulting from the negligence of either party in performing their duties and responsibilities under this Agreement.

Section 1.05. Default. If the Municipality shall materially breach any of the terms or conditions of this Agreement and such shall fail to cure such breach within thirty (30) days after its occurrence, the Municipality shall be deemed to be in default. The MCLIA may serve written notice of such default upon the Municipality, and if, within thirty (30) days thereafter, the breach is not remedied, this Agreement shall be terminated.

Section 1.06. Government Approvals. The MCLIA and the Municipality agree to use their best efforts and due diligence to obtain any approvals from the New Jersey Department of

Environmental Protection, and/or any other agency that may be required to implement or maintain the Recycling Program and/or the Curbside Program.

Section 1.07. Term. The term of this Agreement shall be from August 1, 2004 until July 31, 2007.

## ARTICLE II

Section 2.01. Entire Agreement. The provisions of this Agreement shall constitute the entire agreement between the parties for or with respect to the matters described herein. This Agreement may be modified only by written agreement duly executed by both parties.

Section 2.02. Headlines. Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

Section 2.03. Governing Law. This Agreement shall be governed by the laws of the State of New Jersey.

Section 2.04. Severability. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or to such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, supplemented, or otherwise affected by such action, remain in full force and effect.

Section 2.05. Execution of Counterparts. This Agreement may be executed in any number of counterparts each of which shall be executed by the MCLIA and Municipality and all of which shall be regarded for all purposes as one original.

IN WITNESS WHEREOF, the Authority and the Municipality have caused their respective corporate seals to be hereunto affixed hereto and attested and this Agreement to be signed by their respective officers duly authorized and this Agreement to be dated as of the day and year first above written.

WITNESS:

MERCER COUNTY  
IMPROVEMENT AUTHORITY

By: *Cynthia Navarro*

By: *Phillip S. Miller*  
Phillip S. Miller, Executive Director

WITNESS:

BOROUGH OF HIGHTSTOWN

By: *Candace B. Gallagher*

By: *Robert F. Patten*