

**AGREEMENT FOR SOLID WASTE AND RECYCLABLE MATERIAL MATERIALS
COLLECTION AND DISPOSAL SERVICE FOR THE BOROUGH OF PINE HILL**

THIS AGREEMENT, made this 2nd day of February, 2015, shall be between **WASTE MANAGEMENT OF NEW JERSEY, INC.** [hereinafter "WASTE MANAGEMENT"], having its principal place of business located at Waste Management of New Jersey, Inc., 107 Silvia Street, Ewing, New Jersey 08628, , and the **BOROUGH OF PINE HILL** [hereinafter the "BOROUGH"], a municipal corporation, whose principal place of business is 45 West 7th Avenue, Pine Hill, New Jersey 08021.

RECITALS

WHEREAS, the Borough is in need of refuse and recycling collection and disposal services; and

WHEREAS, the Townships of Cherry Hill, Gloucester, Winslow and the Boroughs of Merchantville and Pine Hill created a cooperative pricing group to allow for a combined effort in securing solid waste and recyclable materials collection services; and

WHEREAS, pursuant to State statute, Local Public Contracts Law N. J. S. A. 40A:11-1 et seq., bids were received and opened on July 28, 2015 for the solid waste and recyclable material collection services for all participating municipalities; and

WHEREAS, the bids have been evaluated by the Borough Administrator and the Borough's Chief Financial Officer, and the recommendation is made as hereinafter provided to award base bid option 31 to **Waste Management**, as the lowest responsible bidder to comply with the uniform bid specifications; and

WHEREAS, base bid option 31 provided for a five-year total bid value of \$2,377,752.00 for the collection of solid waste, container service and recyclables for the Borough; and

WHEREAS, add/deduct #5 provided for a five-year total value of \$1,023,750.00 for the disposal of all collected solid waste; and

WHEREAS, this add/deduct consideration has an opt-out clause each anniversary date of the contract allowing the Borough to terminate the solid waste disposal service if the county cooperative group secures a decreased price for this service; and

WHEREAS, as documented within the bid specifications, the Borough reserves the right to eliminate solid waste and recyclable material collection services to various entities throughout the term of the five-year contract; and

WHEREAS, by Resolution 2015-160, Waste Management was awarded the contract; and

WHEREAS, it is the desire of the Borough and Waste Management to enter into this Agreement.

NOW, THEREFORE, WITNESSETH, that for and in consideration of the prices stated in WASTE MANAGEMENT's Bid Proposal, which is hereby incorporated herein by reference, WASTE MANAGEMENT agrees to supply the BOROUGH refuse and recycling collection and disposal services in accordance with the Notice to Bidders, Bid Specifications, Bid Proposal and any Addenda, and the terms of this Agreement as follows:

1. The Recitals in the Preamble are incorporated by reference into this Agreement.
2. TERM. The term of this contract shall commence on February 1, 2016 and shall run for a period of five (5) years, ending on January 31, 2021, subject to the OPT OUT provision.
2. SCOPE OF WORK. WASTE MANAGEMENT agrees to provide Solid Waste and Recycling curbside collection as listed in the NOTICE TO BIDDERS, INSTRUCTIONS TO BIDDERS, and BID SPECIFICATIONS which are attached hereto and made a part hereof. Curbside collection will be once a week for all services.

WASTE MANAGEMENT will provide solid waste and recycling service for all container collection services. Container service will be a minimum of once a week or more as noted in the Specifications.

The bulk waste will be collected once a week for all curbside and container service.

3. PAYMENT. The BOROUGH agrees to make payments in accordance with the terms of WASTE MANAGEMENT's proposal. WASTE MANAGEMENT shall be paid by the BOROUGH for services rendered under this Agreement in the amount as documented in the chart below:

PROPOSED OPTION 31:

	Solid Waste/ Bulk Collection	Recycling	Containers
Year 1	\$296,400	\$150,996	\$9,528
Year 2	\$302,328	\$154,008	\$9,708
Year 3	\$308,364	\$157,092	\$9,912
Year 4	\$314,520	\$160,236	\$10,104
Year 5	\$320,808	\$163,440	\$10,308
Total	\$1,542,420	\$785,772	\$49,560

GRAND TOTAL: \$2,377,752 (including containers)

The BOROUGH shall pay WASTE MANAGEMENT equal monthly payments for the services provided for each annual contracted year.

ADD/DEDUCT #5:

Contractor to Own and Dispose of Solid Waste Materials

Year 1	Approx. 3,900 tons @ 52.00 per ton	\$202,800
Year 2	Approx. 3,900 tons @ 52.25 per ton	\$203,775
Year 3	Approx. 3,900 tons @ 52.50 per ton	\$204,750
Year 4	Approx. 3,900 tons @ 52.75 per ton	\$205,725
Year 5	Approx. 3,900 tons @ 53.00 per ton	\$206,700
Approximate Total		\$1,023,750

The BOROUGH reserves the right to eliminate the solid waste disposal services and redirect disposal to any facility within 25 miles of the border of the municipality. If service is eliminated, written notice will be provided a minimum of 90 days prior to the yearly anniversary of the Agreement. The right is limited to the BOROUGH securing pricing that is a reduction in costs over the contracted value provided.

The tonnage above is estimated. WASTE MANAGEMENT will be paid for the actual tonnage of waste which is to be disposed. See Section 5.13 of the Bid Specifications "Invoice and Payment Procedure."

4. SUBCONTRACTING. WASTE MANAGEMENT shall not subcontract any portion of work to be performed by WASTE MANAGEMENT unless specifically approved, in writing, by the BOROUGH. WASTE MANAGEMENT shall be responsible for the performance and work of any such contractors.
5. INSURANCE COVERAGE. WASTE MANAGEMENT shall take out and maintain in full force and effect at all times during the life of this Agreement insurance in conformance with the requirements of N.J.A.C. 7:26H-6.17.
 - A. Under N.J.A.C. 7:26H-6.17, WASTE MANAGEMENT shall be required to purchase and maintain during the life of the contract, comprehensive general and contractual liability insurance, comprehensive automobile liability insurance and workers' compensation insurance with limits of not less than the following:
 1. For workers' compensation, unlimited coverage and in accordance with New Jersey statutes for employer's liability;
 2. For comprehensive general and contractual liability insurance coverage, the policies to include personal liability, property, contractual liability, explosion, collapse and underground hazard coverage, and completed operations coverage for the term of the contract, bodily injury liability

limits of \$1,000,000 each person and property damage liability limits of \$3,000,000 each occurrence; and

3. For 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 \$1,000,000 each occurrence.

B. An insurance certificate shall be provided to list the BOROUGH naming it as an additional insured on the comprehensive general contractual liability, automobile liability, and umbrella policies.

C. 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 Borough. All insurance required pursuant to (A) above shall remain in full force and effect until the final contract payment.

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

E. Certificates of insurance shall be delivered to the Borough after the contract is awarded and prior to the commencement of performance.

F. Upon notification by the BOROUGH, WASTE MANAGEMENT shall supply the Borough, within five (5) days of notification, a certificate of insurance as proof that the insurance policies required by these specifications are in full force and effect.

6. INDEMNIFICATION. WASTE MANAGEMENT shall indemnify and hold harmless the BOROUGH and its officers and employees from and against all claims, damages, losses, and expenses, including all reasonable expenses incurred by the individual participating members 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 WASTE MANAGEMENT, its agents, servants, or employees or subcontractors and that results in any loss of life or property or in any injury or damage to persons or property.

7. PERFORMANCE BOND. WASTE MANAGEMENT shall provide a performance bond to the Borough issued by a Surety in an amount equal to no more than 100% of the annual value of the contract. The performance bond must be provided prior to or concurrent with the required time frame for the delivery of the executed contract as described in Section 4.2 of the Bid Specifications. The performance bond for each succeeding year shall be delivered to the BOROUGH

with proof of full payment of the premium one-hundred twenty (120) days prior to the expiration of the current bond.

Failure to deliver a performance bond for any year of a multi-year contract one hundred twenty (120) days prior to the termination of the current bond will constitute a breach of contract and will entitle the BOROUGH to terminate the contract upon the expiration of the current bond. Notwithstanding termination pursuant to this section, WASTE MANAGEMENT is obligated to fully perform through the date of termination of the contract and damages shall be assessed in an amount to the costs incurred by the BOROUGH in re-bidding the contract.

8. LIQUIDATED DAMAGES. WASTE MANAGEMENT agrees that liquidated damages will be assessed in all cases where the BOROUGH shall elect to take such liquidated damages for actual costs, but not less than the following:

A. \$2,000.00 per route or any portion thereof for each day that WASTE MANAGEMENT fails to collect the refuse or recyclable material except where due to an Act of God. "Route shall be defined to mean the path which each truck follows to collect refuse in any given day. Each truck responsible for the collection of refuse shall be deemed to comprise its own route.

B. For failure to clean up immediately, spillage from WASTE MANAGEMENT's vehicles or resulting from the collection or carting of refuse: \$100.00 for each such violation.

C. For failure to answer a complaint pertaining to problems concerning collection of solid waste or recycling on the same day the complaint is received: \$100.00 dollars.

D. For failure to provide information as to the number and type of trucks working daily: \$50.00 a day.

E. For failure to place trash and/or recycling containers off the traveled roadway on the grass plot: \$50.00 dollars for each location stop and/or house.

F. \$100.00 for failure to replace or pay for any container or cover within seven (7) days as prescribed.

G. \$200.00 per occurrence for regularly failing to collect a stop.

H. \$100.00 per occurrence for failure of any collection vehicle to be equipped with a broom or shovel as required.

I. \$100.00 for failure of the Supervisor to report and collect complaints as set forth in Section 5.11 of the Bid Specifications.

J. If WASTE MANAGEMENT mixes a load of recyclable material with solid waste, liquidated damages will be assessed in the amount equal to the entire disposal cost of the material in the truck. The cost/ton will be based on the weight of the truck at the disposal facility.

K. \$1,000.00 per occurrence for any employee accepting a gratuity as set forth in Section 5.12 of the Specifications.

L. \$1,000.00 per occurrence for the collection and/or disposal of any unauthorized stop.

A continuing violation of any of the above shall be considered a new violation each day. In the event that continued and repeated violations are not corrected by WASTE MANAGEMENT after due notice by the BOROUGH, the BOROUGH shall in no way relieve WASTE MANAGEMENT of contract obligations specified herein. Liquidated damages shall be deducted from the monthly bill.

9. TERMINATION. Any violation of the Specifications shall be sufficient cause for the immediate cancellation of the contract by the BOROUGH, who may thereupon employ the necessary labor to perform the work or re-advertise or re-let the work, at the expense of WASTE MANAGEMENT and its sureties.

If, through any cause, WASTE MANAGEMENT shall fail to fulfill in a timely and proper manner obligations under this contract or if WASTE MANAGEMENT shall violate any of the requirements of this contract, the BOROUGH shall then have the right to terminate this contract by giving written notice to WASTE MANAGEMENT of such termination and specifying the effective date of termination. Such termination shall relieve the BOROUGH of any obligation for balances to WASTE MANAGEMENT of any sum or sums set forth in the contract.

Notwithstanding the above, WASTE MANAGEMENT shall not be relieved of liability to the BOROUGH for damages sustained by the BOROUGH by virtue of any breach of the contract by the contractor and the BOROUGH may withhold any payments to the contractor for the purpose of compensation until such time as the exact amount of the damage due the BOROUGH from WASTE MANAGEMENT is determined.

WASTE MANAGEMENT agrees to indemnify and hold the BOROUGH harmless from any liability to subcontractors/suppliers concerning payment for work performed or goods supplied arising out of the lawful termination of the contract by the BOROUGH under this provision.

In case of default by WASTE MANAGEMENT, the BOROUGH may procure the services from other sources and hold WASTE MANAGEMENT responsible for any excess cost occasioned thereby.

Continuation of the terms of this contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, the BOROUGH reserves the right to cancel this contract upon (30) days written notice to WASTE MANAGEMENT.

10. AGREEMENTS. The contract documents shall consist of the following:

1. This Agreement
2. Notice to Bidders
3. Specifications
4. All addenda
5. Bid proposal (as accepted)

This contract, including any attachment to it, the Bid Proposal and any other documents therein included by reference sets forth the entire understanding and agreement between BOROUGH and WASTE MANAGEMENT. This Agreement contains the entire agreement of the parties with respect to the Scope of Work and shall become effective as soon as it is signed by all parties. It supersedes any previous communications or understandings, whether oral or written, with respect to these subjects. WASTE MANAGEMENT and BOROUGH represent and acknowledge that no promises or agreements, except those set forth herein, have been made or relied upon, and further represent and acknowledge that in deciding to enter into this contract, neither party is relying on facts, legal conclusions or representations any other party has made or omitted regarding any matter except as contained herein.

11. LAW. This contract is made under and shall be governed by the laws of the State of New Jersey.

12. NOTICES. Any notice, approval, acceptance, request, bill, demand or statement hereunder from either party to the other shall be in writing and shall be deemed to have been given when either delivered personally or deposited in a U.S. mailbox in a postage prepaid envelope to the following addresses:

WASTE MANAGEMENT: Waste Management of NJ, Inc.
107 Silvia Street
Ewing, NJ 08628

BOROUGH: Borough of Pine Hill
45 West 7th Avenue
Pine Hill, NJ 08021

13. AFFIRMATIVE ACTION. During the performance of this contract, WASTE MANAGEMENT agrees as follows:

- a. WASTE MANAGEMENT, 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. WASTE MANAGEMENT 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 of training, including apprenticeship. The attorney 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 non-discrimination clause.

- b. WASTE MANAGEMENT, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of WASTE MANAGEMENT, 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.
- c. WASTE MANAGEMENT, where applicable, agrees to comply with any 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.
- d. WASTE MANAGEMENT agrees to attempt in good faith to employ minority and female workers consistent with the applicable BOROUGH employment goals prescribed by section 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 BOROUGH employment goals determined by the Affirmative Action Office pursuant to section 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.
- e. WASTE MANAGEMENT agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities and 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.
- f. WASTE MANAGEMENT agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the

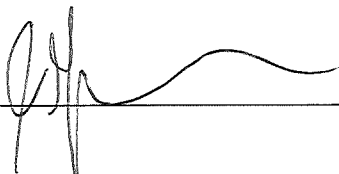
principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions.

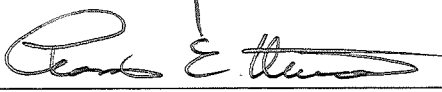
- g. WASTE MANAGEMENT agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.
- h. WASTE MANAGEMENT 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).

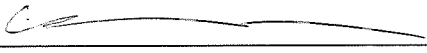
14. MISCELLANEOUS. The following miscellaneous provisions shall apply to this Agreement:

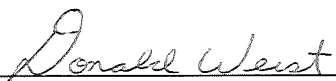
- a. Modifications – This Agreement may not be amended, altered or modified in any manner, except in writing executed by the parties hereto.
- b. Headings – This section and any other headings contained in this Agreement are for reference only and shall not affect the meaning and interpretation of this contract.
- c. Invalid Clause – The invalidity of any clause contained herein shall not render any other provision invalid and the balance of the Agreement shall be binding upon all parties hereto.
- d. Entire Agreement – This Agreement shall consist of the entire agreement of the parties and it is acknowledged that there are no side or oral agreements relating to the undertaking set forth herein.
- e. Assignability – This Agreement and all rights, duties and obligations herein may not be assigned by WASTE MANAGEMENT to any professional corporation or other person and/or entity without the written approval of the Township Administrator.
- f. In the event of a conflict between this Agreement and the Bid Specifications or Proposal, this Agreement shall control. In the event of a conflict between the Bid Specifications and the Proposal, the Bid Specifications shall control.

IN WITNESS WHEREOF, the parties to this contract have executed this Agreement on
the 2nd day of February, 2015.

ATTEST 


ATTEST
Thomas E. Utermark, Asst. Secretary

BY: 
BOROUGH OF PINE HILL

BY: 
WASTE MANAGEMENT OF NJ
Donald Weist, Area Public Sector Manager