

COLLECTION AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into this 29 Day of June 2016, by and between Fremont Township, a municipal corporation, of 4850 Mertz Rd., Mayville Michigan 48744 (hereafter "Township"), and **Tri-County Refuse Service Inc, dba Republic Services of Flint** 4101 Holiday Dr., Flint Michigan 48507; a Michigan limited liability company, (hereafter, the "Contractor").

The Township and Contractor agree as follows:

I. TERM.

The term of this Agreement shall begin on December 1, 2016 (the "Effective Date") and shall expire on November 30, 2021

This Agreement may be extended upon mutual written agreement by the Township and Contractor.

2. SCOPE OF WORK

The Contractor is granted the sole and exclusive franchise, license and right within the geographic limits of the Township and shall furnish all personnel, labor, equipment, trucks and all other items necessary to provide carted refuse material collection, removal and disposal services as specified in this Agreement, and to perform all of the work called for within this Agreement.

3. DEFINITION OF TERMS.

Bulky Items – defined as any item larger than what the Cart can accommodate. This would include items such as stoves, water tanks, washing machines, furniture, swing sets, patio furniture, chairs, couches, bed springs, water heaters, and other large waste materials. Those items containing CFC's (Freon bearing appliances such as refrigerators, air conditioners and freezers) will be collected, at no additional charge.

Cart – The term "cart" shall be defined as one (1) ninety-five (95) and or (1) sixty-five (65) gallon wheeled container, for the use by Township Residents to contain their weekly Residential Refuse. Carts will be maintained by Contractor and replaced for normal wear and tear. Normal wear and tear does not include the cleaning of said Carts. Should a Cart be damaged due to the negligence of the Resident, a replacement charge of \$65.00 will be remitted as payment in advance of delivery of a new one. All Carts will remain the property of the Contractor.

Hazardous Waste- (excluded from this Contract)-- Hazardous Waste is a form of Excluded Waste and is defined as any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, bio hazardous, toxic or listed or characteristic Hazardous Waste as defined by federal, state, provincial or local law or any otherwise regulated waste. Hazardous Waste shall include, but not be limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and including future amendments thereto, and any other applicable federal, state or local laws or regulations.

Noncollectable Materials -- Neither the term solid waste nor "bulky Item" shall include organic or otherwise putrescible animal or vegetable matter; yard waste and debris, ashes, cinders or

floor sweepings; whole tires; carbonated beverage containers; dead animals; hazardous waste; auto engines and/or chassis parts; metal drums, liquids of any kind or any other material banned from the landfills as per state statute.

Refuse - discarded waste materials in a solid or semi-liquid state, consisting of garbage, rubbish or a combination thereof, including waste generated by agricultural operations.

Refuse Cart - is defined as one (1) 95 or (1) 65 gallon wheeled blue container/blue top to contain all refuse, trash, and/or garbage as generated by the resident.

Recyclable Material - solid waste taken out of the waste stream to be reused, such as newsprint, aluminum, glass, plastic #1,2,4,5 & #7, metals etc.

Residential Unit - a group of rooms located within a building and forming a single habitable unit with facilities which are used (or are intended to be used) for living, sleeping, cooking and eating and which are occupied or otherwise habitable.

Yard Waste - Grass clippings, leaves, weeds, hedge clippings, garden waste, Christmas trees and twigs and brush no longer than four (4) feet in length or heavier than fifty (50) pounds in weight and no more than four (4) inches in diameter.

4. **SERVICE, OPERATIONS AND PERFORMANCE.**

Solid Waste

The Contractor shall provide one (1) ninety-five (95) gallon curb cart (aka tote) to each residential dwelling for the provision of all normal Type II household solid waste placed curbside for collection once per week on Friday. All refuse; trash and/or garbage must be placed in Contractor provided cart, should the resident have more refuse than will fit within the cart the resident shall be permitted to place the extra refuse next to the cart for collection.

Residents requesting a second cart must demonstrate their need. This determination of said need will be made at the Contractor's sole discretion. Carts will be maintained by Contractor and replaced for normal wear and tear. Normal wear and tear does not include the cleaning of said Carts; this is the responsibility of the resident. Should a Cart be damaged due to the negligence of the Resident, a replacement charge of \$65.00 will be remitted by resident as payment in advance of delivery of a new one. All Carts will remain the property of the Contractor.

Weekly service shall also include the collection of one (1) bulky item per week at no additional charge. Bulky items shall be bundled by the residents in parcels not exceeding 4 feet in length and/or 50 pounds in weight. Residents shall remove doors from all appliances before placing them curbside for collection.

Contractor will not collect and shall not obtain ownership of any non-Refuse item or Non-collectable Materials.

5. **MUNICIPAL AND COMMERCIAL**

Contractor agrees to provide collection services for refuse placed in the contractor provided container once a week at the Township Hall. Should the Township request an increase in service beyond the services requested at any time during this contract, Contractor shall retain the ability

to negotiate any additional costs associated to said increase in service with the Township subject to the written agreement of the Township.

6. **Hours of Collection.**

Normal hours of collection are to be from 7:00 a.m. to 6:00 p.m. Exceptions may be made only when the Contractor has reasonably determined that an exception is necessary to complete collection of an existing route due to unusual circumstances and upon the mutual agreement of the Township and Contractor. Contractor will not violate Township ordinances.

7. **Routes and Schedule of Collections.**

All routing and scheduling of trucks used by the Contractor for the Refuse collection shall be left to the reasonable discretion of the Contractor and after consultation with the Township.

8. **Missed Collections.**

In the event that a regularly scheduled collection is missed and a complaint received by either the Township or the Contractor, and where no fault can be found on the resident's part, a special collection of the refuse will be required of the Contractor within forty-eight (48) hours. The Township shall notify the Contractor of any complaints it receives within twenty-four (24) hours.

9. **Holidays.**

Unless notified otherwise, the following holidays will be observed:

Labor Day	Thanksgiving Day
Memorial Day	July 4th
New Years Day	Christmas Day

When a holiday falls on a weekday, there will be no collections on that day, and the rest of that week collection will be one day later than usual.

The suspension of collection service on any holiday in no way relieves the Contractor of its obligation to provide collection service at least once per week.

10. **Complaints.**

The Contractor shall receive and respond to all complaints regarding services provided under this Agreement. Any complaints received by the Township will be directed to the Contractor's office. Should a complaint go unresolved for longer than seven (7) days, the Township will have the right to demand an explanation or resolution to its satisfaction.

Contractor will have regular hours of 8:00 a.m. through 5:00 p.m. to answer all questions and complaints, if any, that Township residents may have. Residents may contact the Contractor's office locally at 800-438-0966

11. Collection Equipment.

An adequate number of vehicles shall be provided by the Contractor to collect Refuse in accordance with the terms of this Agreement. The vehicles shall be licensed in the State of Michigan and shall be operated in compliance with all applicable state, federal and municipal regulations.

All vehicles and other equipment shall be kept in proper repair and sanitary condition. Each vehicle shall bear, as a minimum, the name and phone number of the contractor plainly visible on both cab doors.

12. Disposal Site. All solid waste collected for disposal shall be hauled to Citizens Disposal located in Mundy Township, Michigan or such other disposal facility as determined by the Contractor (the "Disposal Site"). The Contractor shall assume payment of all related costs/fees, including all tipping fees.

13. Compliance with Law.

Contractor shall conduct operations under this Agreement in compliance with all applicable laws. In the event that any collection service provided hereunder, or portions thereof, are rendered unlawful or impracticable pursuant to laws or regulations, Contractor shall, upon notice to the Township and subject to the Township's written agreement, cease providing that service or portion thereof.

14. BASIS AND METHOD OF PAYMENT.

Rates. For all residential collection and disposal services required during the term of this Agreement, the Contractor shall be paid (Price List Below) per residential unit per month for solid waste collection. All the aforementioned rate's shall be increased on December 1st of each year beginning December 1, 2017 by a factor of three (3% percent) as listed below of the prior year's effective residential unit rate (such amount as adjusted is referred to herein as the "Rate") for years two through five.

Year One	(1)	\$8.99
Year Two	(2)	\$9.26
Year Three	(3)	\$9.54
Year Four	(4)	\$9.82
Year Five	(5)	\$10.12

15. Total Compensation and Adjustments for New or Discontinued Service.

Before commencement of work under this Agreement, it shall be the Township's responsibility to provide the Contractor with an accurate address list of residential units to receive collection

service. Thereafter and for the duration of the Agreement, the Township shall reasonably inform the Contractor of any new or discontinued service.

The Contractor shall bill the Township within ten (10) days of the end of each calendar month for an amount calculated as:

(# Residential Units Receiving Service) X the then applicable Rate per residential unit, plus any amount due for additional services rendered at the request of the Township with prior written approval of the Township.

The Township shall remit payment within thirty (30) days following receipt of Contractor's Statement. If any dispute arises, the undisputed amount shall be paid. All unpaid invoices shall carry interest at a rate of 1% per month or, if lower, the maximum rate permitted by applicable state law, until the balance is paid in full.

16. Additional Fees.

The Rate set forth above may, upon thirty (30) days written notice, be increased due to additional taxes, charges, surcharges, and/or fees imposed by governmental authorities on the Contractor, the Collection Service or the Disposal Site following the date hereof, or due to laws, rules, regulations or ordinances which are adopted or changed (including a change in interpretation or enforcement) following the date hereof, which have the effect of increasing to the Contractor for the provision of the Collection Services or the costs to the Disposal Site, whether prospectively or retroactively. The term "Rate" as used in this Agreement shall include any adjustments made pursuant to the immediately preceding sentence. The Contractor shall not be entitled to any increase to the Rate associated with its violations of law, regulations, ordinances, or permit conditions.

Fuel Recovery Fee.

All pricing reflects a base price of \$2.50/gallon for diesel fuel with incremental increases and/or decreases of \$0.04/unit/month for every \$0.10/gallon fluctuation in the cost of diesel over and above the base price. At no time shall the fuel adjustment drop below the base price of \$2.50 per gallon.

17. NOTICE.

All notices or other communications to be given hereunder shall be in writing and shall be sent by overnight delivery or registered or certified United States mail, return receipt requested, properly addresses as follows:

The Township:

Fremont Township
Clerk
P.O. Box 216
Mayville, Michigan 48744

The Contractor:

Tri-County Refuse Service Inc dba Republic Services
of Flint
4101 Holiday Dr.
Flint, MI 48507

18. **NONDISCRIMINATION.**

The Contractor nor any subcontractor nor any person(s) acting on its behalf shall discriminate against any person because of race, sex, age, creed, color, religion or national origin, or any other protected classification.

19. **INDEMNITY.**

The Contractor will indemnify and save harmless the Township, its officers, agents, servants, residents and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney's fees resulting from a willful or negligent act or omission of the Contractor, its officers, agents, servants and employees in the performance of this Agreement; provided, however, that the Contractor shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorneys' fees arising out of the award of this Agreement or a willful or negligent act or omission of the Township, its officers, agents, servants and employees.

20. **INSURANCE.**

The Contractor shall maintain in full force and effect throughout the term of this Agreement and throughout any extension or renewal. All insurance will be by insurers authorized to do business in the State of Michigan. Said policies shall not thereafter be cancelled, permitted to expire, or be changed without advance written notice to the Township. Contractor shall provide the Township with a copy of the contractor's insurance certificate.

21. **PERMITS, LICENSES AND TAXES.**

The Contractor shall obtain and assume the cost of all licenses and permits (other than the license and permit granted by the Agreement) and promptly pay all its applicable taxes.

22. **GOVERNING LAW.**

Both parties agree that the terms and provisions of this Agreement shall be interpreted and governed under the laws of the State of Michigan.

23. **BINDING AGREEMENT.**

This Agreement is binding upon and inures to the benefit of the parties and their respective successors, representatives and assigns.

24. MODIFICATIONS TO AGREEMENT.

The parties agree that the terms and provisions of this Agreement will not be modified nor amended unless in writing signed by both parties hereto. The parties further agree that this requirement will not be waived nor modified unless in writing executed by all the parties hereto.

25. MISCELLANEOUS PROVISIONS.

Breach of Agreement. If the Contractor fails to perform, or to perform in a satisfactory manner, or to perform in accordance with applicable laws, the Township shall have the right to demand in writing adequate assurance from the Contractor that steps have been or are being taken to rectify the situation. The Contractor must within fourteen (14) days of receipt of such demand return to the Township Clerk a written statement (the "Statement") that explains reasons for non-performance or delayed partial or substandard performance during that period and any continuation thereof. The Contractor also has available to it the option to appear with an explanation before the Township Board. Upon the failure of the Contractor to submit a "Statement" or the failure of the Contractor to take steps to rectify the situation, and such situation is a material breach of this Agreement and results in a material adverse effect on the Contractor to perform its obligations hereunder, the Township may, except under conditions of Force Majeure, terminate this Agreement with a 2/3 vote of the Township Board.

Force Majeure. Neither the Contractor nor the Township shall be liable for the failure to perform their duties nor for any resultant damage, loss, etc., if such failure is caused by a catastrophe, strike, riot, war, governmental order or regulation, fine, act of God or other similar or different contingency beyond the reasonable control of the Contractor or Township.

If such circumstances persist for more than seven (7) days or if after their cessation the Contractor is unable to render full or substantial performance for a period of thirty (30) days he may terminate this Agreement upon written notice given sixty (60) days in advance to the Township.

Assignment of Agreement. No assignment of this Agreement or any right accruing under this Agreement shall be made in whole or in part by the Contractor without the express written consent of the Township, which consent shall not be unreasonable withheld. The Contractor may assign any right, interest, obligation or duty of this Agreement to an affiliate of the Contractor with the express written consent of the Township. In the event of any delegation of a duty, the delegate shall assume full responsibility and liability for performance of that duty without affecting the Contractor's liability.

Change of Ownership. In the event that substantially all of the Contractor's business assets are sold, the Township maintains the right to hold the Contractor solely liable. If, however, the Township determines that the new ownership can adequately and faithfully render the services called for in this Agreement for the remaining term of the Agreement, then the Township may elect to execute a notation, allowing the new ownership to assume the rights and duties of the Agreement and releasing the previous ownership of all obligation and liability. The new ownership would then be solely liable for any work and/or claims attendant to this Agreement.

Waivers. A waiver by either party of any breach of any provisions hereof shall not be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance.

Title to Waste: Township warrants that Waste disposed by Township will not contain any Unacceptable Waste. Ownership of Waste shall pass to Contractor when Waste is collected by Contractor or properly disposed of at a disposal facility. Notwithstanding anything set forth in this Agreement or otherwise to the contrary, ownership and liability of Unacceptable Waste shall always remain with Township, irrespective of delivery to, inspection by, and/or acceptance by, Contractor, and such ownership and liability shall survive the termination of this Agreement. Township agrees that Contractor may remove any Unacceptable Waste and assure its proper disposal at Township's expense."

ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties and supersedes any prior understanding or agreement.

IN WITNESS WHEREOF, We, the contracting parties, by our duly authorized agents, hereto affix our signatures on this 29 day of June, 2016.

Witnesses:

Charles J. Sherwin
Amy J. Holbrook

FREMONT TOWNSHIP:

By: Henry Wymore
Henry Wymore, Supervisor

Witnesses:

REPUBLIC SERVICES OF
FLINT

By: Richard Rolf
Richard Rolf, GM