

VILLAGE OF WINNEBAGO

RESOLUTION NO. 2021- 01R

**RESOLUTION AUTHORIZING VILLAGE PRESIDENT TO
SIGN AGREEMENT WITH GILL'S DISPOSAL FOR REFUSE,
RECYCLING, AND YARD WASTE DISPOSAL FOR
CALENDAR YEARS 2021 THROUGH 2027**

**ADOPTED BY THE
BOARD OF TRUSTEES**

VILLAGE OF WINNEBAGO

THIS 11th DAY OF JANUARY 2021

Published in pamphlet form by authority of the Village Board of Trustees of the Village of Winnebago, Illinois, this 13th day of JANUARY, 2021.

RESOLUTION NO. 2021- OLR

**RESOLUTION AUTHORIZING VILLAGE PRESIDENT TO SIGN AGREEMENT
WITH GILL'S DISPOSAL FOR REFUSE, RECYCLING, AND YARD WASTE
DISPOSAL FOR CALENDAR YEARS 2021 THROUGH 2027**

WHEREAS, the Village of Winnebago, has contracted for several years with Gill's Freeport Disposal, Inc., to provide collection, processing, and disposal of residential refuse, bulk items, recyclables, and yard waste for Village of Winnebago residents; and

WHEREAS, the prior agreement between the Village and Gill's Freeport Disposal, Inc., expired on December 31, 2021, but with the Village Board of Trustees having voted at its December 14, 2020 General Board Meeting for an interim understanding of the services to be provided after December 31, 2020, until the formal agreement was executed; and

WHEREAS, there have been ongoing negotiations between the Village and Gill's as to the terms for the agreement, and those terms are memorialized in the agreement marked Exhibit "A" which is attached hereto, incorporated herein, and made a part hereto; and

WHEREAS, it is believed by the Board of Trustees that the terms as contained in the attached agreement and fair and equitable, to enter into the same would be in the best interest of its citizenry, and the Village President should be authorized to sign the same on behalf of the Village of Winnebago.

NOW THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Winnebago, Illinois, as follows:


SECTION I

The Village President shall be, and hereby is, authorized to sign the original of the Agreement attached as Exhibit "A" detailing the terms and condition of the agreement between the Village and Gill's Freeport Disposal, Inc., for the collection, processing, and disposal of residential refuse, recyclables, and yard waste for the Village of Winnebago for the contract term of January 1, 2021 through December 31, 2027.


SECTION II

This resolution shall be effective immediately upon its passage, with publication of the same to be in pamphlet form.

APPROVED:


Franklin J. Eubank, Jr., President
of the Board of Trustees of the
Village of Winnebago, Illinois

ATTEST:


Sally Jo Huggins,
Village Clerk

PASSED: 1-11-2021

APPROVED: 1-15-2021

PUBLISHED:
(in pamphlet form): _____

**AGREEMENT BETWEEN THE VILLAGE OF WINNEBAGO,
ILLINOIS, AND GILL'S FREEPORT DISPOSAL, INC. RE:
COLLECTION, PROCESSING, AND DISPOSAL OF
RESIDENTIAL REFUSE, RECYCLABLES, AND YARD
WASTE FOR THE VILLAGE OF WINNEBAGO, ILLINOIS**

This agreement ("Agreement") is entered into the latest day in December, 2020, listed under the signatures contained on the last page of this document, by and between the Village of Winnebago, Illinois, a municipal corporation (hereafter **VILLAGE**), and Gill's Freeport Disposal, Inc., an Illinois corporation (hereafter **CONTRACTOR**), for the provision of collection, processing, and disposal of residential refuse, bulk items, recyclables, and yard waste, for the Village of Winnebago, Illinois.

In consideration of the residential waste hauling services to be provided by Gill's Freeport Disposal, Inc., and the sums to be paid to said entity by the Village of Winnebago, Illinois, as hereinafter enumerated, the parties hereto hereby covenant and agree as follows:

1. The term of the Agreement shall commence on January 1, 2021 and end on December 31, 2027.
2. "The fees to be paid Contractor by Village for the collection of Residential, Refuse, Bulk Items, Recyclables, and Yard Waste ("Services") shall be \$15.50 a month for each one-family or two-family residences for weekly Services collection for January 1st, 2021 through December 31st, 2021 (the "Monthly Service Fee"). Rates for households qualifying for the Senior Citizen Exemption on their property taxes as defined by Winnebago County or providing sufficient photo identification to the Village showing the resident is sixty-five (65) years of age or older shall be \$14.75 for each one-family or two-family residence for weekly Services

collection for January 1st, 2021 through December 31st, 2021 (the “Senior Citizen Service Fee”). Beginning on January 1st, 2022, and thereafter annually on January 1st for each year of the Agreement, the Monthly Service Fee and the Senior Citizen Service fee shall be increased in accordance with the CPI-U index (Garbage and Trash Collection Services, CUSR0000SEHG02). On each annual anniversary date the rates for Monthly Service Fee and the Senior Citizen Service Fee shall be adjusted to reflect changes in the cost of operations, as reflected by percentage change, during the immediately preceding twelve (12) month period, in the Consumer Price Index (“CPI”) for All Urban Consumers, Garbage and Trash Collection, in U.S. City Average, Not Seasonally Adjusted, 1983=100, as published by the United States Department of Labor, Bureau of Labor Statistics (“BLS”), or its successor, with a floor of 2% and a cap of 4%”

3. **CONTRACTOR** shall provide all **VILLAGE** single family and two-family residences weekly collection Services, with such weekly collection to take place every Tuesday. A week is determined as Monday through Friday. If the collection schedule falls on a holiday, the collection day will be set back one day, after the holiday. Holidays are New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day. **CONTRACTOR** shall not be required to pick up any special or hazardous waste, or any other materials banned from landfills.

4. All refuse materials to be collected shall be placed at curb location by 6:00 A.M., local time on the day of collection.

5. All refuse material shall be placed in bags or cans not exceeding a capacity of thirty-three (33) gallons with a fifty (50) pound limit per bag or can. However, **CONTRACTOR** shall offer residents of the Village a 95 gallon tote for solid

waste (a "Toter"), and a 65 gallon tote for recycling (a "Toter") at no cost to the residents for the initial set of Toters. These CONTRACTOR provided Toters may exceed the fifty (50) pound weight limit. CONTRACTOR shall retain title and ownership to the Toters, provided, however, CONTRACTOR shall not be liable for damage to Toters caused by the negligence or willful misconduct of the residents of the Village. CONTRACTOR shall retain title and ownership of the Toters following the termination of the Agreement. CONTRACTOR agrees to pick up an unlimited amount of Residential Refuse once per week. Residential refuse ("Residential Refuse") shall be defined as:

- (a) Properly contained household kitchen wastes, including cans, bottles, paper goods, food and vegetable matter, used in the preparation, use, cooking and serving of foods.
- (b) Properly contained general household trash and refuse, including packaging material, empty cartons, crates, boxes, wrapping materials, newspapers and magazines, cloth material, empty cans, discarded toys, clothing and similar materials.

CONTRACTOR shall not be required to collect rocks, broken concrete, Christmas trees, hot ashes, hazardous materials, liquid wastes, and materials resulting from construction, remodeling, repair or demolition of any structure or from manufacturing, commercial, or agricultural processes, or any item banned from an IEPA approved landfill.

CONTRACTOR shall have no obligation to collect any material which is or contains, or which CONTRACTOR reasonably believes to be or contain, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous material as defined by applicable federal, state, or local laws or regulations ("Excluded Waste"). If CONTRACTOR finds what reasonably appears to be discarded Excluded Waste, CONTRACTOR shall promptly notify the Village and the producer of

the Excluded Waste, if the producer can be readily identified. Title to and liability for any Excluded Waste shall remain with the producer of the Excluded Waste, even if **CONTRACTOR** inadvertently collects or disposes of such Excluded Waste.

6. **CONTRACTOR** shall also collect from each residence served in the **VILLAGE** bulk items which typically include, but are not limited to, large furniture, appliances, water heaters, lawn mowers, and grills. **CONTRACTOR** shall limit the collection of bulk items to two (2) items per week (collectively "Bulk Items").

7. **CONTRACTOR** shall provide each residence serviced in **VILLAGE** with one recycling 65 gallon can with a hinged lid or similar size container. **CONTRACTOR** agrees to pick up an unlimited amount of recyclable material contained in a 65 gallon recycling container or bin once per week. All recycling materials shall be placed in the bin provided at curb location by 6:00 A.M. local time on the day of collection. Recycling materials shall be defined as newspapers with inserts, all plastic, aluminum and metal cans, green, brown, and clear glass and cardboard that can fit in the 65 gallon recycling container. Recycling materials accepted may be added to if future markets become available and agreed to by **VILLAGE** and **CONTRACTOR** (Collectively "Recyclables"). One of the contemplated items to be added is electronic waste (e-waste). Once **CONTRACTOR'S** Recycling Vendor accepts e-waste, then **CONTRACTOR** will also pick-up e-waste that will fit in the 65 gallon recycling container in the **VILLAGE** at no additional cost to the **VILLAGE** or its residents. **CONTRACTOR** shall notify **VILLAGE** promptly upon the change in being able to collect e-waste and shall provide **VILLAGE** with a definition of e-waste.

8. All yard waste shall be placed in biodegradable brown paper bags and/or garbage cans marked with a large X at the curb location by 6:00 A.M. local time on the day of collection. Yard waste shall be defined as leaves, grass clippings, chip brush, garden waste, and bush trimmings, and small tree trimmings not to exceed ¼ inch in diameter or twelve inches in length which can be stored in a 30-gallon plastic bag or container. **CONTRACTOR** shall pick up Yard Waste on an unlimited basis when the compost site on Baxter Road is operational, which is typically between May and November of each year of this Agreement (Collectively “Yard Waste”).

9. **CONTRACTOR** agrees to collect Residential Refuse, Recyclables, and Yard Waste in segregated compartments of disposal vehicles and/or separate disposal vehicles. The **CONTRACTOR**, shall however, retain the right to collect mixed Residential Refuse and Recyclables in the event the **CONTRACTOR** is able to separate said materials at a later time in the disposal process.

10. **CONTRACTOR** shall also provide pick up service for refuse materials to those buildings used by the **VILLAGE** in connection with the governmental operations of the municipality at no charge (excluding special and hazardous wastes). **CONTRACTOR** shall provide a dumpster with four-yard capacity to **VILLAGE**, with such dumpster to be placed at the Village Garage currently located at 600 West Soper Street, Winnebago, Illinois. Also, **CONTRACTOR** agrees to provide office paper and old corrugated cardboard recycling services as needed to these buildings used by the **VILLAGE** in connection with the governmental operations of the municipality at no charge.

11. **CONTRACTOR** agrees to make collection with as little noise and as little disturbance as reasonably possible, with particular attention to this provision during the morning hours. **CONTRACTOR** shall perform collection services between the hours of 6:00 A.M. and 6:00 P.M. **CONTRACTOR** shall not perform these services outside of the scheduled hours, or on Saturday or Sunday, unless it is due to a holiday observed under the terms of this Agreement. The hours of collection may be temporarily extended due to extraordinary circumstances or other conditions, such as increased waste during the holidays or weather-related events and such extension of hours shall be provided to the **VILLAGE** office.

12. **CONTRACTOR** shall have sufficient personnel/equipment available to be ready to serve the **VILLAGE** at all times. The **CONTRACTOR'S** performance of the work under this Contract shall be observed and monitored by the **VILLAGE**. Should the **VILLAGE** determine during the life of the Agreement that the **CONTRACTOR** has not performed satisfactorily, the Contractor, upon notification from **VILLAGE**, shall increase the work force, tools, and equipment as needed to properly perform the stated services to the satisfaction of the **VILLAGE**. The failure of the **VILLAGE** to give such notification shall not relieve the **CONTRACTOR** of its obligation to perform the work at the time and in the manner specified in the Agreement.

13. **CONTRACTOR** shall bill **VILLAGE** monthly based on the actual number of one-family or two-family residences located within the **VILLAGE**, except if the particular residential owner is already paying **CONTRACTOR** for **Commercial Refuse Service instead of Residential Refuse Service**. The **VILLAGE** shall provide **CONTRACTOR** with the actual number of one-family or two-family units located with

the **VILLAGE** no later than five days after the end of the prior month. In the event the **VILLAGE** has not provided **CONTRACTOR** with an updated count of the number of **VILLAGE** residences by the fifth day after the end of the prior month then **CONTRACTOR** shall use the prior month's total. The **VILLAGE** as of the execution of this Agreement has an estimated total of Eight Hundred Fifty (850) one-family or two-family regular rate residences and an estimated total of Two Hundred Fifteen (215) one-family or two-family senior citizen rate residences.

14. **VILLAGE** agrees that **CONTRACTOR** has an exclusive license for the collection of Residential Refuse, Bulk Items, Recyclables, and Yard Waste from the Village and its one-family and two-family residences. **VILLAGE** agrees to prohibit the collection of Residential Refuse, Bulk Items, Recyclables, and Yard Waste by anyone other than **CONTRACTOR**. This provision does not prohibit inhabitants of affected residences from delivering recycling materials to a place of their choice.

15. Except in the case of Contractor's negligence or willful misconduct, **CONTRACTOR** shall not be liable for any damages to pavement, curbing, or other driving surface resulting from the weight of its trucks and equipment.

16. In the event diesel fuel prices as reported by the Energy Information Administration of the U.S. Department of Energy ("EIA/DOE") in its Weekly Retail On-Highway Diesel Prices Midwest Index ("Index") exceed Five Dollars (\$5.00) per gallon during the term of this Agreement then **CONTRACTOR** shall be entitled to increase the Monthly Service Fee by the following method stated below in this paragraph. **CONTRACTOR** shall provide the **VILLAGE** with an initial estimate of diesel fuel consumption for the performance of its duties in removing Residential Refuse, Bulk

Items, Recyclables, and Yard Waste from the Village on a monthly basis as of January 1, 2021. **CONTRACTOR** shall be responsible for updating this consumption amount at a minimum of annually by January 1 of each year. If no information is provided to the **VILLAGE** by **CONTRACTOR** as of January 1, then the latest diesel fuel consumption amount will be used in any calculation. The **CONTRACTOR** and **VILLAGE** shall share in this increase in cost as is stated in the formula to be followed as follows:

CONTRACTOR shall be allowed to charge the amount of the diesel fuel as reported in the index noted above less the amount of \$5.00 per gallon and then divide that difference by 2, then multiply that amount by the number of gallons of consumption on a monthly basis last reported to the **VILLAGE** and divide that amount by the number of one and two family residences serviced by **CONTRACTOR** in the **VILLAGE**. Any amount in the thousandth position as show by the "X" (\$0.00X) shall be rounded up from "5" to the next cent. For example, **CONTRACTOR** reported to the Village that as of January 1, 2021, it uses 2,000 gallons of diesel fuel each month on average to perform its obligations under this contract. The price of diesel fuel as reported by EIA/DOE is \$5.25 for the month of January 1, 2021. The **CONTRACTOR** would subtract the amount of \$5.00 from the amount of \$5.25 resulting in \$0.25 with that amount being divided by 2, for an amount of \$0.125, then multiply the amount of \$0.125 times the amount of diesel fuel used of 2,000 gallons, which would equal \$250. This \$250 amount would be spread out equally among the residences served by **CONTRACTOR** in the **VILLAGE**, which currently number 1,065, so each residence would pay the amount of \$0.2347 or \$0.23 for that particular month. In the example the amount is not rounded up, since the number in the thousandth position is less than "5". The diesel fuel index shall be reviewed each

month and updated using the formula stated above. If the diesel fuel falls back to below \$5.00 per gallon, then no surcharge will be paid by **VILLAGE** to **CONTRACTOR** during that time period.

17. If **CONTRACTOR** is unable or unwilling to perform any part of any Agreement eventually executed, the **VILLAGE** may suspend the Agreement; provided, however, that prior to suspending the Agreement, the **VILLAGE** at the Village Board's direction shall serve written notice on the **CONTRACTOR** at its last known business address, and allow the **CONTRACTOR** five (5) working days to perform. In the event the **CONTRACTOR** fails to perform, after notice and five (5) working days, then the **VILLAGE** Board of Trustees may terminate the Agreement. The remedies provided herein shall not be exclusive, but shall be in addition to any other remedy available to the **VILLAGE** including, but not limited to other legal or equitable remedies. The failure of the **VILLAGE** to declare a default or insist on performance of any specific term or condition shall not constitute a waiver on the part of the **VILLAGE** to declare a default by the continuing or subsequent failure of the **CONTRACTOR** to perform according to the terms and conditions of the Agreement. Should the **CONTRACTOR** fail to provide service to 99% of the scheduled service addresses by the day after the scheduled collection day, the **CONTRACTOR** shall pay to the **VILLAGE** liquidated damages of Two Hundred-Fifty Dollars (\$250) per day until service is provided to those neglected service addresses. In addition, for complaints not resolved to the **VILLAGE'S** satisfaction within Forty-Eight (48) hours, excluding Sundays and Holidays, liquidated damages of Fifty Dollars (\$50) per day will be assessed against the **CONTRACTOR**. Should the **CONTRACTOR** choose to operate in violation of the hours of operation

listed herein, the **CONTRACTOR** shall pay to the **VILLAGE** liquidated damages of Two Hundred-Fifty Dollars (\$250) per day. These provisions do not waive other remedies that the **VILLAGE** may have. **CONTRACTOR** shall be solely liable for fines, liquidated damages and penalties imposed by the **VILLAGE** or other governmental agency resulting from the **CONTRACTOR'S** performance or its failure to perform its duties and obligations under the Agreement. Liquidated damages shall be paid by **CONTRACTOR** to **VILLAGE** within thirty (30) days of the assessment of the liquidated damages. If the liquidated damages are not paid in full within that time frame, then **VILLAGE** shall be allowed to deduct the amount from amounts due to **CONTRACTOR**.

18. **CONTRACTOR** shall comply with all applicable law, regulations, and rules promulgated by any Federal, State, County, Municipal and/or other governmental unit or regulatory body in effect or which may be in effect during the term of the Agreement. Included within the scope of the laws, regulations, and rules referred to in this paragraph, but in no way to operate as a limitation, are all forms of traffic regulations, public utility and Intrastate and Interstate Commerce Commission regulations, all Illinois and U.S. environmental protection laws and rules and regulations, Workmen's Compensation Laws, Illinois Preferred Workers' Act, the Social Security Act of the Federal Government and any of its titles, and FEPC or FEOC statutory provisions and rules and regulations.

19. **CONTRACTOR** shall protect, indemnify, hold and save harmless and defend the **VILLAGE** against any and all claims, costs, causes of action, and expenses, including but not limited to reasonable attorney's fees incurred by reason of a lawsuit or

claim for compensation arising in favor of any person, persons, corporations, governmental bodies or agencies, or partnerships, including the employees or officers or independent contractors or subcontractors of the **CONTRACTOR** or **VILLAGE**, on account of personal injuries or death, or damages to property occurring, growing out of, incident to, or resulting directly from the negligence or willful misconduct of **CONTRACTOR**, its agents, employees, or subcontractors in the performance by the **CONTRACTOR** of the services referenced herein, except that the **CONTRACTOR** shall have no liability for damages or the costs incident thereto caused by the sole negligence of the **VILLAGE**.

20. **CONTRACTOR** shall keep in force, to the satisfaction of the **VILLAGE** at all times during the performance of the work referred to above, Public Liability Insurance and Automobile Liability Insurance with Bodily Injury limits and Property Damage Insurance with limits of not less than \$1,000,000.00 and worker's compensation and related insurance coverage at amounts required by statute.

21. **CONTRACTOR** shall indemnify **VILLAGE** for any loss it may sustain by theft or other cause from the negligent or intentional acts of the employees of the **CONTRACTOR** or of the subcontractors.

22. In the event the **CONTRACTOR** shall be adjudged bankrupt, either by voluntary or involuntary proceedings, then the Agreement shall immediately terminate, and in no event shall the Agreement be, or be treated as, an asset of the **CONTRACTOR** after adjudication of bankruptcy. If the **CONTRACTOR** shall become insolvent or fail to meet its financial obligations, then the Agreement may be terminated at the option of the **VILLAGE** upon seven (7) days written notice to the **CONTRACTOR** and in no

event shall the Agreement be, or be treated as, an asset of the **CONTRACTOR** after the exercise of said option by the **VILLAGE**.

23. **CONTRACTOR** agrees it is the policy of **CONTRACTOR** to provide equal employment opportunity without regard to race, religion, color, national origin, handicap, age, or sex through a program of positive action affecting all employees, and that **CONTRACTOR** carries out the requirements of Federal Executive orders 11246 and 11375, Civil Rights Act of 1964, Equal Employment Act of 1972, and all other applicable laws, and indicates its active support of the principle of equal opportunity in employment.

24. In the event written communication or notice is desired by the parties hereto, or required by the terms of this Agreement, such notice shall be provided as follows:

If to the **VILLAGE**:

VILLAGE OF WINNEBAGO
108 West Main Street
Winnebago, IL 61088

If to **GILL'S FREEPORT DISPOSAL, INC.:**

GILL'S FREEPORT DISPOSAL, INC.
735 Van Buren
Freeport, IL 61032

Both parties agree to promptly notify the other in writing in the event of a change of address.

25. The laws of the State of Illinois shall be applicable to the enforcement of this Agreement.

26. This Agreement has been entered into and executed on the date first above written at Winnebago, Illinois.


27. This Agreement shall bind the parties hereto, their heirs, legal representatives, successors, and assigns.

28. This Agreement represents the entire agreement among the parties with respect to the matters that are the subject hereof.

IN WITNESS WHEREOF, the parties of this Agreement have caused it to be executed as of the day and year first above written. Those individuals signing below represent and warrant that they are authorized to sign this Agreement on behalf of the respective entity under which individual's name is listed.

Village of Winnebago,
a Municipal Corporation

Gill's Freeport Disposal, Inc.

By: 
Franklin J. Eubank, Jr.,
Village President

By: _____
Adam Gooderham,
Division Vice President

Dated: January 11, 2021

Dated: _____