

BILL NO. S-11-12-17

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving SECOND
AMENDMENT TO THE GARBAGE AND RECYCLE
CART MAINTENANCE AGREEMENT between
TOTER INC. and the City of Fort Wayne, Indiana, in
connection with the Board of Public Works.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

SECTION 1. That the SECOND AMENDMENT TO THE
GARBAGE AND RECYCLE CART MAINTENANCE AGREEMENT by and
between TOTER INC. and the City of Fort Wayne, Indiana, in connection with the
Board of Public Works, is hereby ratified, and affirmed and approved in all
respects, respectfully for:

two (2) year extension of the Garbage and Recycle Cart
Maintenance Agreement;

involving a total annual cost of TWO HUNDRED SIXTY THOUSAND AND 00/100
DOLLARS - (\$260,000.00). A copy said Contract is on file with the Office of the
City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect
from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney

SECOND AMENDMENT TO THE GARBAGE AND RECYCLE CART MAINTENANCE AGREEMENT

THIS SECOND AMENDMENT to the Garbage and Recycle Cart Maintenance Agreement ("Second Amendment") is entered as of January 1, 2012 (the "Effective Date") by and between The City of Fort Wayne Indiana by and through its Board of Public Works ("The City") and Toter, Incorporated ("Toter").

RECITALS:

The City and Toter previously entered into a Garbage and Recycle Cart Maintenance Agreement (the "Maintenance Agreement") the terms of which are incorporated herein by reference, which will expire December 31, 2011 and a first amendment thereto which extended the term of the Maintenance Agreement. The City and Toter now desire to extend the Maintenance Agreement for an additional two (2) years and to amend the Maintenance Agreement in certain respects, all as hereinafter set forth.

NOW THEREFORE, good and valuable consideration the acceptance of which is hereby acknowledged, the parties hereto agree as follows:

1. The Maintenance Agreement will be extended for a period of two (2) years beginning January 1, 2012 and ending December 31, 2013.
2. Exhibit B of the Maintenance Agreement is deleted in its entirety and replaced with the following:

All carts are to be serviced within 72 hours of notification. Toter Incorporated will be responsible for all parts and labor associated with repairing the carts both warranty and non-warranty issues. Serial numbers and all other service related information as asked for by the City are to be recorded and provided to the City on a monthly basis. The City has purchased two handheld RFID tag readers that are to be used when servicing the carts. Any garbage carts taken off the street shall be retrofitted with an RFID tag before they are put back into service. The cost for this service shall be \$2 per tag. This includes cost of the tag, parts, and labor to insert the tag into the cart.

Toter Incorporated shall replace at no cost to the City all stolen carts or missing carts (move-ins) up to a threshold of 1,200 carts per year. The City agrees to purchase all remaining carts used to replace those stolen or missing above this threshold annually.

Both the Garbage and Recycling Cart Maintenance Agreements will have the same charges for In-Service, Exchanges and Pick-ups. These charges are below:

In-Service - \$0.15 per cart per month
Exchanges - \$15 per cart
Pick-ups - \$15 per cart

There will be NO additional Assembly and Delivery charges.

In the event the City conducts a targeted inventory of garbage carts in certain areas, Toter Incorporated will pick-up, wash, and place back into inventory all unauthorized carts as instructed by the City. The cost for this service shall be \$11 per cart.

3. The City will purchase carts that are provided to newly built homes, where a resident has requested an additional cart, or for carts that our collection contractor has lost in the truck. Carts will be purchased at the following prices:

96 gal Garbage -\$51.33
48 gal Garbage - \$41.85
96 gal Recycle - \$53.97
48 gal Recycle - \$44.50

All prices include granite, freight, and Assembly and Delivery. Garbage carts include UHF RFID Tags. Recycle carts include Yellow Lids, IML and UHF RFID Tags. Prices will be held for one (1) year, with a price adjustment, up or down, based on the percent change in resin costs from the average price for January 2012 to the average price for January 2013. Changes will be determined using the Plastics News publication, Thermoplastics Commodity LLDPE, Butene-1, Comonomer Extrusion Liner Film.

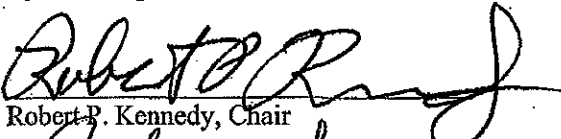
4. This Second Amendment shall not be binding or obligatory upon the City unless and until it shall have first been approved by the Common Council of the City of Fort Wayne, and should the Common Council of the City of Fort Wayne fail to approve the same within forty-five (45) days after the date hereof, this Second Amendment shall become void and of no effect and the rights and obligations of the parties hereunder shall thereupon extinguish.
5. Except as herein expressly modified, the Maintenance Agreement shall remain in full force and effect in accordance with its original term.

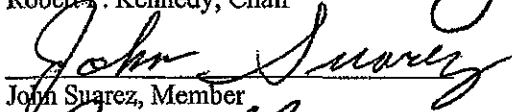
IN WITNESS WHEREOF, the City and Toter Incorporated, by their respective duly authorized agents, hereto affix their signatures and seals at Fort Wayne, Indiana, as of this _____ day of December, 2011.

CITY OF FORT WAYNE, INDIANA

BY: _____
Thomas C. Henry, Mayor

CITY OF FORT WAYNE, INDIANA
By an through its Board of Public Works


Robert P. Kennedy, Chair


John Suarez, Member


Kumar Menon, Member

Toter Incorporated

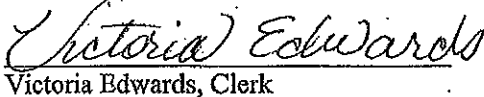
BY: _____
Jim Pickett, Vice President -Municipal Sales

ATTEST:

Christine Kitts

("Toter")

ATTEST:


Victoria Edwards, Clerk

(Seal)

("City")

**COUNCIL
DIGEST SHEET**

ENCLOSED WITH THIS INTRODUCTION FORM IS A TAB SHEET AND RELATED MATERIAL FROM THE VENDOR (S) WHO SUBMITTED BID (S). PLEASE FILL OUT THE FOLLOWING INFORMATION AND RETURN TO PURCHASING:

BID #: 2263 – May 2005 AWARDED TO: Toter Inc. AMOUNT: \$260,000 annually

WAS WAS NOT THE LOWEST, MOST RESPONSIVE AND MOST RESPONSIBLE OF
BIDDERS. IF NOT LOWEST, GIVE EXPLANATION FOR NOT OBTAINING LOW BID:

NA

DESCRIPTION OF PROJECT (BE SPECIFIC AND QUANTIFY):

Extend current garbage and recycle cart maintenance contract. Term is January 1, 2012 – December 31, 2013
Contract cost is \$1.80 per cart in- service or \$260,000 annually. Contractor delivers carts to new homes, additional
carts when requested, existing homes with new occupant, stolen carts, repairs any damaged carts reported, exchanges
carts for different sizes, washes out all used carts and places back into inventory.

IF REPLACEMENT, WHAT NECESSITATES:

NA

WHAT ARE THE IMPLICATIONS IF PURCHASE IS NOT APPROVED:

Currently, Toter repairs or replaces all carts damaged, whether the damage is covered under warranty or not. City
will have to purchase replacement carts for those stolen. Estimated value of carts provided free of charge to the City
by this agreement is \$160,000 over 2 yrs. City will also have to rebid contract or hire employees, equipment, and
storage building to service the carts if contract is not extended.

IF PRIOR APPROVAL IS BEING REQUESTED, JUSTIFY:

PRESENTED BY: Matt Gratz, Solid Waste Manager Solid Waste Dept. DATE: 12/7/11
(WILL BE PRESENT AT COUNCIL)

FUNDING SOURCE: Solid Waste Fund – Line 5399

Date: December 7, 2011

To: Members of Common Council
City of Fort Wayne

From: Matt Gratz
Solid Waste Dept.

Re: Approval of Cart Maintenance Agreement Extension

The Solid Waste Department is seeking approval for the extension of the Garbage and Recycle Cart Maintenance Agreement. We are currently nearing the end of the first 2 year extension to the Agreement which was granted in December of 2009.

Pricing for the maintenance of the carts has remained the same which is \$1.80 per cart In-Service. This comes out to roughly \$260,000 per year. This is for the maintenance of over 87,000 garbage carts and 54,000 Recycle carts.

Service has been exceptional over the course of the agreement. The agreement states all work orders must be completed within 3 days of notification. Toter has over the course of the agreement completed work orders on average in less than 2 days. Currently they are at 1.1 days for garbage carts and 1.4 days for recycle carts.

We have had few issues with the Toter Carts. They have been very durable requiring few repairs or replacements. Toter repairs or replaces all damaged carts whether they are warranty or non-warranty claims. The combined warranty and non-warranty failure rate is 1.2 % which is extremely low considering the abuse that some of these containers take. If you look at just the warranty related damage, it would be less than 1%.

If you have any questions concerning the Maintenance Agreement, please contact me at 427-2474 or by email at matt.gratz@cityoffortwayne.org