Coffeyville KANSAS	**CITY OF COFFEYVILLE BOARD OF COMMISSIONERS AGENDA ITEM**	
MEETING DATE	February 12, 2013	
RESOLUTION OR ORDINANCE NUMBER	R-13-13 – Residential Waste Collection Services Agreement R-13-14 – City Facilities Waste Collection Services	
AGENDA TITLE	**Approval of a Three Year Waste Collection Services Agreement with Waste Connections for Residential Trash Service** **Approval of a Three Year Waste Collection Services Agreement with Republic Services/Allied Waste for City Owned Facility Trash Service**	
REQUESTING DEPARTMENT	Finance	
PRESENTER	Angie Naden, Treasurer	
FISCAL INFORMATION	Cost as recommended:	
	Budget Line Item:	700-5-000-478 – residential trash service expense line item Professional Services Line Item (478) within the various departments for City facility trash collection Budget for 2013 was prepared assuming cost/rates of would remain at current levels
	Balance Available	
	New Appropriation Required:	[ ] Yes [X] No
PURPOSE	To approve contracts for residential trash services as well as trash collection services for 23 City facilities.	
BACKGROUND	N/A	
SPECIAL NOTES	N/A	

ANALYSIS	Following discussion at the previous two meetings, Commissioners concurred to contract with Waste Connections for residential trash service and with Republic/Allied Waste for trash service for 23 City-owned facilities.
PUBLIC INFORMATION PROCESS	N/A
BOARD OR COMMISSION RECOMMENDATION	N/A
STAFF RECOMMENDATION	Based on discussions with the Commission at meetings on 1/8/13 and 1/22/13, the consensus was to use Waste Connections for our Residential Trash Service and Republic/Allied Waste for our City Owned Facilities Trash Service. Staff recommends approval to authorize the Mayor and City Clerk to execute a three-year agreement with each company to provide trash removal services.
REFERENCE DOCUMENTS ATTACHED	Residential trash contract with Waste Connections City facility trash contract with Republic/Allied Waste

RESOLUTION NO. R-13-13

A RESOLUTION TO AUTHORIZE THE EXECUTION OF AN AGREEMENT FOR RESIDENTIAL SOLID WASTE COLLECTION SERVICES IN THE CITY OF COFFEYVILLE WITH WASTE CONNECTIONS, INC.

BE IT RESOLVED by the Board of Commissioners of the City of Coffeyville, Kansas that the Mayor and City Clerk are hereby authorized and directed to execute an agreement with Waste Connections, Inc. for residential solid waste collection within the city limits of the City of Coffeyville.

ADOPTED THIS 12TH DAY OF FEBRUARY, 2013.

_____
David George, Mayor

ATTEST:

_____
Cindy Price, City Clerk

APPROVED AS TO FORM AND LEGALITY:

_____
Paul Kritz, City Attorney

RESIDENTIAL SOLID WASTE AGREEMENT BETWEEN THE CITY OF COFFEYVILLE, KANSAS AND WASTE CONNECTIONS OF OKLAHOMA, INC.

This agreement made and entered into as of this 12th day of February, 2013 by and between the City of Coffeyville, Montgomery County, Kansas (hereinafter referred to as City), and Waste Connections of Oklahoma, Inc (hereinafter referred to as Contractor).

WHEREAS, Contractor is engaged in business of collecting solid waste, and

WHEREAS, the parties wish to provide for the collection, removal and disposal of all collectible residential solid waste of City and to perform such other work as may be incidental thereto and the parties wish to reduce their agreement to writing.

NOW THEREFORE, in consideration of the conditions, mutual agreements and covenants herein contained, it is understood and agreed by the parties hereto as follows:

ARTICLE I. DEFINITIONS

1.1 City shall mean the City of Coffeyville, Kansas.

1.2 Commercial Waste shall mean all Solid Waste emanating from (a) establishments engaged in business including, without limitation, stores, markets, office buildings and restaurants, and (b) multiple (larger than double) family Residential dwellings.

1.3 Dwelling Unit shall mean single and double family Residential dwelling(s).

1.4 Garbage includes all kitchen and table refuse and every accumulation of animal, vegetable and other material that attends the preparation, consumption, decay or dealing in or storage of meat, fish, fowl, birds, grain, fruits, vegetables or other types of foods of whatever character and shall include all animal and vegetable refuse from kitchens and all household wastes that shall have resulted from the preparation of food including tin cans and bottles. Dead animals, dishwater and wastewater are not included under garbage.

1.5 Refuse includes any and all accumulations of waste material, garbage, trash, rubbish, paper, leaves, grass, packing material, pasteboard, trimmings from lawn and flower gardens, cinders, metal and small tree limbs under four (4) inches in diameter when cut to a length of not to exceed four (4) feet and tied in bundles not to exceed eighteen (18) inches in diameter. The term refuse shall include waste products from the construction, remodeling, demolition or repair of any building, or resulting from any construction or building operation. The term refuse shall not include:

(1) Sod, dirt, sand, rocks, bricks, or other masonry unless packaged in accordance with Sections 13-39(C) of City Ordinance No. G-04-02, or placed in roll-off containers designated for such purpose;

(2) Any item posing unusual risk of injury to personnel or damage to the collection vehicle;

(3) Tires, except as provided in Section 13-41(B) of City Ordinance No. G-04-02;

(4) Commercial Waste; or

(5) Any yard waste, which is or becomes prohibited from disposal in sub-title D landfills.

1.6 Residential shall mean any enclosure, building, structure or portion thereof occupied by one or more persons for and as living quarters and containing (1) two or less individual dwelling units; (2) rooming houses having no more than four persons in addition to the family of the owner or operator; and (3) mobile homes, manufactured homes and residential-designed manufactured homes.

1.7 Bulky Waste shall mean but are not limited to furniture, carpeting, appliances (including hot water tanks), televisions, mattresses and containerized building materials from minor "do it yourself" construction projects. The residential customer is responsible for the removal of any Freon from appliances prior to pick-up.

1.8 Solid Waste shall mean Garbage and Refuse.

ARTICLE II. TERM OF CONTRACT

2.1 The term of this agreement shall be for a three (3) year period, commencing April 1, 2013, and ending March 31, 2016, unless either party gives written notice to the other party for failure to perform under this contract Article V, 5.1 or as described in Article VII, 7.1.

2.2 The City's financial obligations contained in this agreement are subject to annual appropriations of funding in the municipal budget during each calendar year the agreement remains in effect. The City shall make a good faith effort to fund said financial obligations on an annual basis. If the City fails to do so, the agreement shall be cancelled as of the date of non-appropriation, without penalty or additional liability to either party.

ARTICLE III. OBLIGATION OF CONTRACTOR

3.1 Contractor shall collect, remove, and dispose of all Residential Solid Waste set for collection, including the occasional bags located outside the poly-cart, within the city limits of Coffeyville, as they now exist or may hereafter be revised according to and as required by City and shall furnish all labor, vehicles, tools, equipment, and other necessary facilities thereof. Contractor shall at all times be cognizant of wind conditions and be responsible for collecting any waste that blows out of containers or collection vehicles during the collection process. Contractor shall at all times observe and comply with applicable local, state and federal regulations in relation to Solid Waste removal and disposal.

3.2 Contractor shall provide for a curbside monthly collection for residents of all approved bulky items up to three (3) cubic yards each month. Residents may request collection of Bulky Waste prior to their scheduled Bulky Waste pick up day at a time

agreed to by the contractor and residential customer. However, such time shall be within five (5) days of the residential request. Items accepted shall include, but are not limited to furniture, carpeting, appliances (subject to applicable rules or regulations), televisions, and mattresses. Items that will not be accepted are tires, liquid paint, automotive batteries, motor oil, railroad ties, chemicals and hazardous materials.

3.3 Performance Bond – Within 15 days after award by the City Commission, the Contractor shall furnish to the City a bond with a corporate surety issued by a company acceptable to City in the amount of $500,000.00. The Contractor shall pay all premiums chargeable for the bond. The bond shall specify (a) that it is non-cancelable for one year; and (b) that it will automatically renew for subsequent one-year periods unless notice of cancellation is provided to the City by the surety at least one hundred twenty (120) days prior to the effective date of the cancellation. In the event of cancellation, the Contractor shall furnish a replacement bond at least ninety (90) days prior to the effective date of the cancellation, so that no lapse in coverage will occur. In the event Contractor does not so furnish a replacement bond, the City (a) may declare the Contractor in default as of the effective date of cancellation of the bond; and (b) shall be relieved of all further obligations to Contractor as of the effective date of the cancellation of the bond.

3.4 Carts/Dumpsters – Contractor shall provide a 96-gallon cart/dumpster to all Dwelling Units receiving services under the Contract. All costs shall be included in the unit price for service. Contractor shall provide carts that are in good condition and repair and, subject to the provisions of City Ordinance No. G-04-02, shall provide replacement carts as deemed necessary by the City. The carts/dumpsters shall be removed by the Contractor within thirty (30) days following the termination of this Agreement unless the Agreement is renewed or the parties otherwise agree. Carts shall remain uniform in size, shape and color for the duration of the agreement.

3.5 Curb/Alley – All Residential Solid Waste collections made by the Contractor shall be made at a curbside location adjacent to the Dwelling Unit from which collection is made with the exception of those residences facing a State/Federal highway. Solid Waste collection for residences facing a State/Federal highway shall be made at the alley. Any changes in alley versus curbside pick must be approved by the City.

3.6 Disposal – All Solid Waste collected by the Contractor shall be disposed of at a processing facility or disposal area approved by the City and complying fully with all requirements of the state in which the landfill is located.

3.7 Holidays – Contractor shall not be required to pick up Solid Waste on the following holidays: New Years Day, Thanksgiving Day and Christmas Day. The collection ordinarily made on such day shall be made by the Contractor on the next day and using Saturday to get back on schedule. It is the intent of this provision that the occurrence of said holiday shall not prevent the Contractor from making one (1) collection per week per customer served.

3.8 Inclement Weather – In the event that inclement weather prevents a scheduled collection, then the collection ordinarily made on such day shall be made by the Contractor on the next day and using Saturday to get back on schedule. It is the intent of this provision that the occurrence of said weather event shall not prevent the

Contractor from making one (1) collection per week per customer served. Inclement weather is considered snowfall and or ice that prevent the trucks from running in safe and reasonable manner.

3.9 Missed pick up – All reported missed trash pickups shall be picked up within 24 hours of the missed collection date. If the Contractor fails to meet the cure requirement, the City may, at its option, perform the collection and charge the Contractor $200 for each and every missed trash pickup.

3.10 Performance Standards – The Contractor shall be subject to the following customer service standards:

3.10.1 Solid Waste shall be collected according to a schedule approved by the City.
3.10.2 The Contractor shall make efforts to minimize complaints per refuse crew. If more 10 complaints are received in a calendar month about a given crew, the Contractor shall take corrective action.

3.11 Collection Times – All Residential Solid Waste shall be picked up between 5:00 a.m. and 7:00 p.m., Monday through Friday, subject to the provisions of Section 3.7 and 3.8 hereof.

3.12 Toll-Free Telephone – Contractor shall maintain a toll-free telephone line staffed no less than 8:00 a.m. to 5:00 p.m. Monday through Friday by a supervisor with authority to handle problems or complaints as they may arise, brought to their attention by the City or by Residential customers. During non-business hours, the telephone shall be maintained by an answering machine or answering service.

3.13 Insurance - Contractor shall purchase and maintain during the life of this contract the following insurance:

3.13.1 Liability insurance showing the City as an additional insured with policy limits reasonably acceptable to the City, which shall be a minimum of $1,000,000.00.
3.13.2 Worker's Compensation meeting the statutory requirements of the State of Kansas.

3.14 Liquidated Damages – In addition to the collection fees allowed in Section 3.9, Contractor shall pay the sum of $2,000 as liquidated damages to the City for each and every day that the Contractor shall fail or refuse to perform the contracted duties and obligations of the provisions hereof; the parties agreeing that actual damages are difficult if not impossible to ascertain. The damages shall in no manner be construed as a penalty.

3.15 Landfill Services – All costs, fees and expenses of landfill services, if any, shall be paid by the Contractor.

3.16 Maintenance of Equipment - Contractor agrees to keep its vehicles, tools and equipment in good condition, repair and working order; Contractor agrees to pay, as the same respectively come due, all taxes, assessments and other governmental charges at any time lawfully levied or assessed upon or against all vehicles, tools and equipment, and other necessary facilities thereof or any part thereof; and Contractor

agrees to provide annually written documentation to the City that it has obtained and is maintaining all-risk casualty insurance on its vehicles, tools and equipment.

3.17 Storage of Equipment – Throughout the term of this agreement, Contractor shall not leave unattended any vehicles, tools or equipment in residential areas of the City. No vehicles shall remain parked or stored inside the City limits for extended periods (over two hours) or overnight.

ARTICLE IV. OBLIGATION OF CITY

4.1 City Obligation – City shall be responsible for Residential billing and collection for Solid Waste collection services that are subject to the Contract.

4.2 City will assist Contractor in asking residents who consistently have extra bags outside their poly-cart, to obtain service for an additional cart.

ARTICLE V. RATE SCHEDULE

5.1 As full consideration for performing all work and services set out in this Contract, the City agrees to pay the Contractor in accordance with the unit prices set out in the Schedule/Rate Table Exhibit A hereto attached and made part of hereof together with those subsequent rates or modifications which may be justified to the City Manager and approved by the Coffeyville Board of Commissioners and hereafter attached to and made part of this agreement.

5.2 Cost Increases – Each year, 90 days prior to the Contract anniversary date, the Contract shall be reviewed and the Contractor may request that the unit price be increased up to a maximum of seventy-five percent (75%) of any increase in the United States Department of Labor, Bureau of Statistics, Washington, D.C. Consumer Price Index (CPI) for all Urban consumers for the previous year. No payment increase will be considered automatic; the Contractor shall justify any increase to the City Manager who will make recommendation to the City Commission for consideration. The Contractor shall present documentation of actual cost increase to the City to justify the payment increase request. If the CPI decreases in any given year, the City Manager may review the Contractor's records for re-negotiation of contract fees.

ARTICLE VI. INDEMNIFICATION

6.1 Contractor shall indemnify and save harmless the City, its officers, employees, agents and assigns from any liability, claim, damage, or cause of action which may be sustained or asserted against said City, including reasonable attorney fees, to the extent caused by Contractor's negligent performance of services under this Agreement.

ARTICLE VII. FAILURE TO PERFORM

7.1 In the event the Contractor shall fail or refuse to perform said duties and obligations hereunder, or shall become insolvent, or shall become the subject of a proceeding in bankruptcy, or shall become the subject of any proceeding for the appointment of receivership, or in the event of assignment for the benefit of Contractor's creditors, or

taking of its trucks, equipment, vehicles and other facilities used in connection with the performance of the work under any execution against Contractor, then the City may declare Contractor to be in breach of this agreement and, upon five (5) days written notice to the Contractor by regular mail, facsimile or served personally upon the Contractor, may terminate the agreement. Upon such termination, the City shall be entitled to recover damages and take such other actions and seek other remedies as may be permitted by law; and the liquidated damages provision in Article 3.14 of this agreement shall not limit Contractor's liability.

ARTICLE VIII. MISCELLANEOUS

8.1 This agreement shall be construed and interpreted in accordance with the laws of the State of Kansas, in Kansas Courts.

8.2 In the performance of its duties hereunder, Contractor agrees to comply with all laws of the United States, State of Kansas and City Ordinances.

8.3 This Agreement is the entire and final expression of the Agreement and it may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or negotiations of the parties.

8.4 The covenants terms and conditions of this Agreement shall extend to and be binding upon the successors, assigns, trustees, and/or receivers of the respective parties thereto.

8.5 The section headings hereof are for the convenience of referenced only and shall not be treated as a part of this Agreement or as affecting the true meaning of the provisions herein.

8.6 This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8.7 This Agreement has been prepared from negotiations from all parties and no party shall be charged with having prepared this document in the event an ambiguity exists.

8.8 Should any paragraph be declared unconstitutional or unenforceable, the validity of the remaining provisions shall be given full force and effect.

8.9 Any waiver by the parties hereto of any breach of any parties' obligations under this Agreement shall not be deemed a continuing waiver and shall not prevent the parties hereto from exercising any remedy they may have for any succeeding breach of the same or other obligation.

8.10 The contact is non-assignable and non-transferable by Contractor without prior written consent of the City; provided, however, that Contractor may assign this Agreement without the consent of the City to an affiliate of Contractor, to any person or entity that purchases any operations from Contractor, or as a collateral assignment to any lender to Contractor or any of its affiliates. A subcontractor of the Contractor cannot be used without the prior written consent of the City.

8.11 All notices and communications required to be in writing pursuant to this Agreement shall be effective only if delivered personally, or sent by facsimile or certified mail, or by overnight delivery service to the following:

Waste Connections of Oklahoma, Inc.
83 Country Road 2712
Bartlesville, OK 74003
Attn: District Manager
Fax 1-918-336-0830 or toll free at 866-413-3375

City of Coffeyville, Kansas
Attn: City Manager
P.O. Box 1629/ 102 W. Seventh
Coffeyville, KS 67337
(620) 252-6175 (fax)

8.12 If Excluded Waste is discovered before it is collected by Contractor, Contractor may refuse to collect the entire container of waste. In such situations, Contractor shall contact the City and the City shall undertake appropriate action to ensure that such Excluded Waste is removed and properly disposed of by the depositor or generator of the waste. In the event any Excluded Waste is not discovered by Contractor before it is collected, Contractor may, in its sole discretion, remove, transport and dispose of such Excluded Waste at a location authorized to accept such Excluded Waste in accordance with all applicable laws and charge the depositor or generator of such Excluded Waste all direct and indirect costs incurred due to removal, remediation, handling, transportation, delivery and disposal of such Excluded Waste. The City shall provide all reasonable assistance to Contractor to conduct an investigation to determine the identity of the depositor or generator of the Excluded Waste and to collect the costs incurred by Contractor in connection with such Excluded Waste. Subject to the City's providing all such reasonable assistance to Contractor, Contractor shall release the City from any liability for any such costs incurred by Contractor in connection with such Excluded Waste, except to the extent that such Excluded Waste is determined to be attributed to the City. As used herein, the term "Excluded Waste" shall mean and include any hazardous materials, wastes or substances; toxic substances, wastes or pollutants; contaminants; pollutants; infectious wastes; medical wastes; or radioactive wastes.

8.13 Notwithstanding any other provision of this Agreement, except for the City's obligation to pay amounts due to Contractor, any failure or delay in performance due to contingencies beyond a party's reasonable control, including strikes, riots, terrorist acts, compliance with applicable laws or governmental orders, fires and acts of God, shall not constitute a breach of this Agreement.

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement as of the day and year first written above.

CITY OF COFFEYVILLE, KANSAS

By:_____
Name: David George
Title: Mayor

Attest:

_____
Cindy Price, City Clerk

Waste Connections of Oklahoma, Inc.

By:_____
Name: Brenda Merchant
Title: State Sales and Municipal Contract Manager

Attest:

_____

EXHIBIT A

Option 1 – Curb Side Pick Up, Not to Exceed 56,000 lb. Gross Vehicle Weight

Monthly price for each residential unit	$9.95 per unit
Monthly price for each Sr. Citizen residential unit	$9.45 per unit
Monthly price for each additional poly cart	$5.90 per unit