RESOLUTION NO. R-13-14

A RESOLUTION TO AUTHORIZE THE EXECUTION OF AN AGREEMENT FOR SOLID WASTE COLLECTION SERVICES FOR FACILITIES OWNED BY THE CITY OF COFFEYVILLE WITH REPUBLIC SERVICES/ALLIED WASTE.

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 Republic Services/Allied Waste solid waste collection services for facilities owned by 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

SOLID WASTE COLLECTION AGREEMENT
BETWEEN THE CITY OF COFFEYVILLE, KANSAS
AND REPUBLIC SERVICES/ALLIED WASTE

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 Republic Services/Allied Waste (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 solid waste at City owned facilities as outlined in attached Exhibit A 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. TERM OF CONTRACT

1.1 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 Section 6.1

1.2 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 II. OBLIGATION OF CONTRACTOR

2.1 Contractor shall collect, remove, and dispose of solid waste, trash, garbage, refuse, and similar material set for collection (excluding hazardous waste or special waste), at the agreed upon City owned facility locations. 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.

2.2 Carts/Dumpsters – Contractor shall provide the agreed upon size of dumpster and/or polycart at City owned facilities as indicated in the attached Exhibit A. All equipment costs shall be included in the unit price for service. Contractor shall provide carts and/or dumpsters 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.

2.3 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.

2.4 Holidays – Contractor shall not be required to pick up Solid Waste on the following holidays: New Years Day, Memorial Day, Independence Day, Labor 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.

2.5 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. Inclement weather is considered snowfall and or ice that prevent the trucks from running in safe and reasonable manner.

2.6 Missed pick up – All reported missed trash pickups shall be picked up within 24 hours of the missed collection date.

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

2.7.1 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.

2.7.2 Worker's Compensation meeting the statutory requirements of the State of Kansas.

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

2.9 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.

2.10 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 III. OBLIGATION OF CITY

3.1 City Obligation – City shall be responsible for allowing access to the polycarts and/or dumpsters at the agreed upon City owned facilities.

3.2 City will pay monthly for trash collection services provided by the Contractor at the agreed upon City owned facilities.

ARTICLE IV. RATE SCHEDULE

4.1 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.

4.2 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 V. INDEMNIFICATION

5.1 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 VI. FAILURE TO PERFORM

6.1 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.

ARTICLE VII. MISCELLANEOUS

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

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

7.3 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.

7.4 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.

7.5 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.

7.6 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.

7.7 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.

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

7.9 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.

7.10 The contract 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.

7.11 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:

Republic Services/Allied Waste
Municipal Manager
Eastern Oklahoma
1225 N. 161st East Ave.
Tulsa, Ok 74116
Phone: 918-704-6266

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

7.12 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

Republic Services/Allied Waste

By:_____
Name: Pete Forst
Title: General Manager

Attest:

_____

EXHIBIT A

City of Coffeyville City-Owned Facility Trash Pick-up				
Location	**Address**	**Number/Size of Dumpsters**	**Pick-up Times Per Week**	**Republic Cost**
Electric Plant	605 S. Santa Fe	1- 4 Yd	2	$ 125.00
Electric Distribution Building	616 S. Spring	1- 3 Yd	2	$ 97.40
Water Treatment Plant	1702 River Road	1- 4 Yd	1	$ 62.50
Public Service Barn	1106 River Road	1 Lg Roll Off	As Needed	$185 + $32.50/ton
Public Service Barn	1106 River Road	1- 3 Yd	1	$ 48.70
Library	311 W. 10th	1- 2 Yd	1	$ 32.75
Wastewater Treatment Plant	503 E. CR 1400	3- 3 Yd	1	$ 146.10
Aquatic Center	1906 N. Buckeye	1- 3 Yd	1*	$ 48.70
Hillcrest Golf Course	1509 N. Cline	1- 3 Yd	1	$ 48.70
Hillcrest Golf Course	1509 N. Cline	3 Polycarts	1	$ 41.55
Fairview Cemetery	2602 Woodland	1- 3 Yd	1	$ 48.70
City Hall	102 W. 7th	1- 4 Yd	2	$ 125.00
Youth Activities Center	502 S. Walnut	1- 3 Yd	1	$ 48.70
Fire Department	701 S. Walnut	1- 3 Yd	1	$ 48.70
Woods RV Park (as needed)	701 Hargis	1- 4 Yd	1**	$ 62.50
Woods RV Park	701 Hargis	12 Polycarts	1**	$ 166.65
Rivercrest RV Park (as needed)	600 Wood	1- 4 Yd	1**	$ 62.50
Rivercrest RV Park	600 Wood	13 Polycarts	1**	$ 180.50
Walter Johnson Playground	401 Hargis	5 Polycarts	1	$ 69.25
Ron Stevenson Building	601 Park Avenue	1 Polycart	1	$ 13.85
LeClere Park	1600 Woodland	5 Polycarts	1	$ 69.25
Pfister Park	1901 N. Buckeye	8 Polycarts	1	$ 110.80
Harmon Park	804 E. 3rd	3 Polycarts	1	$ 41.55
Downtown Business District		14 Trash Cans	1	$ 75.00
Airport	N Hwy 169	1- 3 Yd	1	$ 48.70
Animal Shelter	502 E. CR 1400	1 Polycart	1	$ 13.85
Brown Mansion	Eldridge & Walnut	1- 2 Yd	1	$ 32.75
	Total Base Price per Month			**$ 2,054.65**
* = June 1 - August 31				
** = Set Oct - Dec				
Note: Total number of polycarts will stay same; location may change as needs arise.				