



EXHIBIT "1"

TRASH BILLING AND COLLECTIONS AGREEMENT

THIS AGREEMENT, made and entered into this ___ day of _____, 20___, by and between the City of Joplin, Missouri, a Missouri municipal corporation, hereinafter referred to as "City," and Allied Services, LLC, d/b/a Republic Services of Galena, a Delaware limited liability company, hereinafter referred to as "the Contractor."

WHEREAS, the City and Contractor have executed a Solid Waste Collection Services Agreement effective April 1, 2016 (attached hereto, incorporated by reference and hereinafter referred to as "the Services Agreement"); and

WHEREAS, the City and Contractor desire to bill and collect amounts due for trash services rendered pursuant to the Services Agreement as described herein.

NOW, THEREFORE, for and in consideration of the mutual agreements and covenants contained herein, the parties hereby agree as follows:

1. Scope of Work. If there is any conflict between this Agreement and the Services Agreement or any other contract document regarding billing and collection for trash services rendered pursuant to the aforementioned documents, this Agreement will control. The Contractor will perform the following scope of work to the City's satisfaction:

a. In consideration of the full and complete performance of the Services Agreement by Contractor and all of the work and services performed hereunder in conformity with the terms and conditions of this Agreement, the City shall pay to Contractor all sums actually collected by the City. The Contractor shall absorb all bad debt for trash services. If a customer does not pay the bill, Contractor can take legal action against customer. In no case shall Contractor terminate service to a resident for non-payment.

b. The City shall be responsible for the trash collection customer billing and accounting service for only those users of the trash collection system and only during the term of this Agreement.

c. The City shall bill at the rate set forth in the Service Agreement effective April 1, 2016. The trash and recycling rates may change once per year; provided that such revision shall not be effective until the billing cycle that includes the service date of the effective change.

d. (i) The City shall designate and cause to be identified on the City's computer records each customer of the City who is a trash collection customer.

(ii) All occupied residential dwelling units will be subject to a monthly fee to the Contractor in the amount set forth in the Service Agreement with Contractor effective April 1, 2016 and said fee shall be included on the resident's sewer bill by the City. In addition to the monthly fee to the Contractor, there shall be a \$0.55

administration fee charged by the City of Joplin, which is subject to change by the City.

(iii) Any citizen wishing to utilize the curbside recycling service offered under the Service Agreement shall establish and terminate such services with the Contractor directly. Contractor shall notify City of such services and changes in services weekly, each Friday, unless such day falls on a legal holiday, in which case such information shall be made on the immediately preceding business day. Contractor shall provide the City with the service effective date and address of each property opting to utilize this service, as well as the service termination effective date and address of each property opting out of this service. City shall bill appropriately based on the service effective date or termination date. All billing, collecting, and reporting of this service shall comply with the terms of this Agreement.

e. The City shall maintain customer billing and accounts receivable data for the City's trash collection customers, including monthly reports, which shall be delivered to the Contractor monthly, by the fifth (5th) of the month following the month to which such reports relate.

f. The City shall provide electronically to Contractor monthly aging, billing and collection reports. The trash collection customers to be billed by the City pursuant hereto shall be billed on a cycle or cycles, which are the same as the City uses for the billing of its sewer service customers.

g. The City shall administer the accounts of the Contractor and prepare the bills for all customers of the City receiving trash collection service subject hereto in accordance with the regular and periodic billing procedure followed by the City in the billing of its customers receiving sewer service. The City agrees to observe the same diligence, policies, and procedures in the billing and accounting of the City's sewer collection accounts.

h. The City will (i) calculate, as set forth above, the applicable trash collection charges for each of the Contractor's trash collection customers identified pursuant to Section 1; (ii) print a trash collection bill therefor; and (iii) deposit such bill in the United States mail, with a return envelope pre-addressed to the City.

i. All of the trash collection charges paid by the City's customers will be collected and receipted by the City and the City shall transmit to the Contractor, by electronic funds transfer, monthly, on the 5th (unless such day falls on a legal holiday or weekend, in which case such transmittal shall be made on the immediately preceding business day), such collections made on behalf of the Contractor during the immediately preceding monthly period, net of chargebacks during such period.

j. Any payment received by the City which is not adequate to pay in full all services billed by the City, shall be first applied to the outstanding sewer bill, and the remainder of the payment, if any, shall be applied on a pro-rata basis to the trash bill. If the City receives an overpayment, such overpayment shall, either be refunded to the customer or applied to the customer's sewer account with the City.

k. The City shall not pursue legal proceedings to force the payment of delinquent trash accounts.

l. This Agreement shall be construed to be applicable to only the parties hereto and shall not confer any rights, privileges, or obligations on any third party, including customers of the City and/or the Contractor.

m. City does hereby designate and appoint its City Manager and his designees as City's representatives to whom all inquiries from Contractor with respect to the performance of Contractor's obligations under this Agreement shall be referred, and the decisions of either individual shall be final, and binding upon City.

n. It is understood and agreed by the parties hereto that the execution hereof by City shall be by its City Manager and certified by the City Clerk, and duly authorized by proper resolution and ordinance of the City Council. A duly certified copy of such authorization to the Agreement shall be made a part hereof. It is further understood and agreed by the parties hereto that the execution hereof by the Company shall be by its President or a Vice President of the Company, attested to by its corporate Secretary or Assistant Secretary.

2. Term. The term of this Agreement shall be for the period of five (5) years, commencing on May 1, 2016 with an option of two (2) additional one-year extensions as specified in the Service Agreement.

3. Termination. This Agreement may be terminated by either party, without cause, with ninety (90) days' advanced written notice to the other party. Notwithstanding the foregoing, this Agreement may be terminated by either party, with cause, with sixty (60) days' advanced written notice to the other party.

4. General Independent Contractor Clause. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri Revenue and Taxation laws, Missouri Workers' Compensation and Unemployment Insurance laws. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

5. City Benefits. The Contractor shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

6. Contract Documents. The contract documents shall consist of the following:

- a. This Agreement
- b. All Contract Amendments
- c. The Agreement for residential solid waste service dated 4/1/16.

7. Conflict of Interest. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Joplin, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of R.S.Mo. Section 105.450 et seq. shall not be violated.

8. Assignment. The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto, provided, however, that claims for money due or to become due to the Contractor from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City and the bond surety. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement.

9. Notices. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

10. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract.

11. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

12. Compliance with Laws. Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by Contractor is current.

13. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

14. Remedies. Except as may be otherwise found in the contract documents, all claims, disputes, counter-claims, and other matters in question between the Owner and Contractor arising out of or related to this agreement or the breach thereof, will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the state in which the Owner is located.

15. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be adjudicated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated
APPROVED AS TO FORM

Peter C. Edwards, City Attorney

CONTRACTOR:
ALLIED SERVICES, LLC

By: _____

Printed Name: _____

Title: _____

CITY OF JOPLIN, MISSOURI

Samuel L. Anselm, City Manager