



P.O. BOX 850 | COWETA, OKLAHOMA 74429 | PH. (918) 486-2189 | FAX (918) 486-5366 | www.cityofcoweta-ok.gov

AGENDA - REGULAR MEETING
COWETA PUBLIC WORKS AUTHORITY
COWETA CITY HALL, 310 S. BROADWAY
IMMEDIATELY FOLLOWING THE MEETING
OF THE COWETA CITY COUNCIL
MONDAY, JULY 12, 2021 6:00 P.M.

MEETING PROCEDURE: Comments on all scheduled agenda items will be heard immediately following the presentation by staff or the petitioner. Please wait until you are recognized by the Chairman and keep your comments as brief as possible. Individuals addressing the Trustees must identify themselves by name prior to making any comments. The Trust Authority will act on an agenda item after comments from staff and the Trust Authority have been heard.

I. CALL TO ORDER

II. ROLL CALL

EVETTE YOUNG _____
HAROLD CHANCE _____
NAOMI HOGUE _____
LOGAN BROWN _____
RANDY WOODWARD _____

III. CONSENT

(All matters under the "Consent Calendar" are considered by the Board of Trustees to be routine and will be enacted by one motion. Any Trustee may, however, remove an item from consent by request.)

1. MINUTES OF THE REGULAR MEETING

APPROVAL OF THE MINUTES OF THE COWETA PUBLIC WORKS
AUTHORITY REGULAR MEETING HELD ON JUNE 7, 2021.

(JULIE CASTEEN, ASSISTANT TRUST MANAGER)

Documents:

[210607 MINUTES OF THE REGULAR MEETING OF THE PWA.PDF](#)

IV. OLD BUSINESS

1. AGREEMENT RENEWAL

DISCUSSION AND POSSIBLE ACTION ON THE ADOPTION OF
RESOLUTION 2021-20, A RESOLUTION OF THE TRUSTEES OF THE
COWETA PUBLIC WORKS AUTHORITY, COWETA, OKLAHOMA
EXERCISING THE OPTION TO RENEW A CERTAIN WASTE DISPOSAL

AGREEMENT WITH COVANTA TULSA RENEWABLE ENERGY, LLC

(ROGER KOLMAN, TRUST MANAGER)

Documents:

[210712 RESOLUTION 2021-20 COVANTA.PDF](#)

V. NEW BUSINESS

(Business which was not foreseen prior to the posting of the agenda.)

VI. ADJOURNMENT

IF YOU REQUIRE SPECIAL ACCOMMODATIONS PURSUANT TO THE AMERICANS WITH DISABILITIES ACT, PLEASE CONTACT CITY HALL BY 9:00 A.M. THE DAY OF THE MEETING.

**MINUTES OF THE COWETA PUBLIC WORKS AUTHORITY REGULAR MEETING
JUNE 7, 2021 6:44 P.M.**

The Trustees of the Coweta Public Works Authority met in regular session on Monday, June 7, 2021 at 6:44 p.m. following the meeting of the Coweta City Council at the Coweta City Hall, 310 S Broadway, Coweta, Oklahoma.

TRUSTEES PRESENT: Evette Young, Harold Chance, Naomi Hogue, Logan Brown, Randy Woodward.

TRUSTEES ABSENT: None.

I. CALL TO ORDER

The meeting was called to order by Chairman Young.

II. ROLL CALL

Roll call taken. Trustees were present as shown above.

III. CONSENT

Motion by Harold Chance, second by Randy Woodward to approve the consent calendar items:

1. Affirmation of actions taken by the City of Coweta regarding a certain lease agreement with Bodie Young for the Metropolitan Environmental Trust and directing the Trust Manager to execute said lease.
2. Minutes of the Coweta Public Works Authority Regular Meeting held on May 5, 2021.

Aye: Harold Chance
Randy Woodward
Logan Brown
Evette Young
Naomi Hogue

IV. OLD BUSINESS

1. Resolution 2021-14 on FY2021-2022 Budget Adoption.

Assistant Trust Manager Julie Casteen recommended approval of the proposed budget as presented at the public hearing.

Motion by Harold Chance, second by Randy Woodward, to adopt Resolution 2021-14, a resolution of the Trustees of the Coweta Public Works Authority, Coweta, Oklahoma adopting the budget for the Coweta Public Works Authority Utility Services Fund, The Sewer Improvements Fund, and the Ambulance Service Fund for the Fiscal Year beginning July 1, 2021 and ending June 30, 2022, and providing for the investment of said funds.

**MINUTES OF THE COWETA PUBLIC WORKS AUTHORITY REGULAR MEETING
JUNE 7, 2021 6:44 P.M.**

Aye: Harold Chance
Randy Woodward
Evette Morris
Naomi Hogue
Logan Brown

2. Resolution 2021-17 Regarding Budget Amendments

Julie Casteen discussed the need for amendments to the FY2021 budget due to unanticipated revenues and expenditures.

Motion by Harold Chance, second by Logan Brown to adopt Resolution 2021-17, a resolution of the Trustees of the Coweta Public Works Authority adopting amendments to the annual revenues and appropriations for the budget of the Coweta Public Works Authority for Coweta, Oklahoma for fiscal year ending June 30, 2021.

Aye: Harold Chance
Logan Brown
Randy Woodward
Evette Young
Naomi Hogue

V. NEW BUSINESS

There was no new business.

VI. ADJOURNMENT

Chairman Young adjourned the meeting at 6:45 p.m.

Evette Young, Chairman

Julie Casteen, Trust Secretary

RESOLUTION NO. 2021-20

A RESOLUTION OF THE TRUSTEES OF THE COWETA PUBLIC WORKS AUTHORITY, COWETA, OKLAHOMA EXERCISING THE OPTION TO RENEW A CERTAIN WASTE DISPOSAL AGREEMENT WITH COVANTA TULSA RENEWABLE ENERGY LLC.

WHEREAS, The Coweta Public Works Authority (“PWA”) and Covanta Tulsa Renewable Energy LLC (“Covanta”) entered into a Municipal Solid Waste Disposal and Energy Recovery Agreement (“Agreement”), attached hereto as Exhibit A, in July 2013; and,

WHEREAS, that Agreement details the rights, duties, and obligations of the PWA and Covanta as it pertains to the disposal of solid waste collected within the boundaries of the City of Coweta, Oklahoma; and,

WHEREAS, the initial term of the Agreement is for ten years from the date of execution of the Agreement; and

WHEREAS, the Agreement provides the PWA the option to renew the Agreement for up to two (2) additional two (2) year terms; and

WHEREAS, it is in the best interest of the Coweta Public Works Authority to exercise the first option to extend the Agreement for an additional two (2) year term.

THEREFORE, BE IT RESOLVED by the Board of Trustees of the Coweta Public Works Authority that:

SECTION 1 the Board of Trustees requests to exercise the first of two, two-year extensions of the term of the Municipal Solid Waste Disposal and Energy Recovery Agreement with Covanta Tulsa Renewable Energy LLC until June 30, 2025, in accordance with Section 2.04 of that Agreement.

SECTION 2 the Board of Trustees directs the Trust Manager to execute all necessary documents related to the actions herein.

This Resolution is approved in open meeting by the Trustees of the Coweta Public Works Authority, on this 12th day of July 2021.

Evette Young, Chairman

ATTEST:

APPROVED:

Julie Casteen, Trust Clerk

Ronald D. Cates, Trust Attorney

EXHIBIT A

MUNICIPAL SOLID WASTE DISPOSAL AND ENERGY RECOVERY AGREEMENT

This Municipal Solid Waste Disposal and Energy Recovery Agreement (this "*Agreement*") is entered into as of July 1, 2013 (the "*Effective Date*"), by and between Covanta Tulsa Renewable Energy LLC, a Delaware limited liability company ("*Covanta*"), and Coweta Municipal Public Authority, a public trust ("*Coweta*"). Covanta and Coweta are sometimes referred to individually as a "Party," and collectively as the "Parties."

Recitals

Covanta operates an energy-from-waste facility located at 2122 South Yukon Avenue, Tulsa, Oklahoma 74107 (the "*Recovery Facility*");

Covanta has entered into that certain agreement with the Tulsa Authority for Recovery of Energy as of May 17, 2012 (the, "TARE Agreement"); and Coweta desires to deliver, and Covanta desires to accept for disposal and energy recovery at the Recovery Facility, certain quantities of Acceptable Recovery Facility Waste (hereinafter defined), in accordance with and subject to the provisions of this Agreement, and with pricing terms the same as those in that certain TARE Agreement.

Agreement

NOW, THEREFORE, in consideration of the premises and of the mutual obligations undertaken herein, and intending to be legally bound, the parties hereby agree as follows:

ARTICLE I - CERTAIN DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below:

"*Acceptable Recovery Facility Waste*" means mixed household solid waste generated within the boundaries of Coweta by residents and (i) which has the characteristics of solid waste normally collected or disposed of by residences, schools, churches and municipal offices and (ii) which is permitted under Applicable Law to be accepted at and processed by the Recovery Facility and which is not Unacceptable Recovery Facility Waste. Acceptable Recovery Facility Waste must be of a size and composition such that the Recovery Facility is able to process it.

"*Acceptance Fee*" means , from the Effective Date \$10.49 per ton of Acceptable Recovery Facility Waste (the "*Base Acceptance Fee*") plus applicable ODEQ (hereinafter defined) fees, and all applicable costs attributable to any Change in Law that come into effect after the Effective Date. The Base Acceptance Fee shall be escalated annually on July 2 of each year during the Term. The annual rate adjustment shall be based on the most recent December CPI-All Urban Consumers, Unadjusted 12 months ended October, Item: All items. The annual rate of adjustment shall not exceed 5%.

Example: Assume that the CPI-All Urban Consumers, Item: All items unadjusted index for November 2013 is 114.5 and on November 2012 it was 105.5. The calculation for the annual rate adjustment to be implemented on December 1, 2013 is as follows:

$$\frac{114.5 - 105.5}{105.5} = 8.06\%$$

and

Total Annual Adjustment = 5.00%

Then

Total Annual Adjustment = 5.00% applied to rates as of December 1st, 2013 to be effective November 30th, 2014.

"Affiliate" shall mean Covanta Holding Corporation and/or any entity, fifty percent (50%) or more of which is owned, directly or indirectly, or controlled by Covanta Holding Corporation.

"Applicable Law" means each and every applicable Federal, state, county, city or local law, statute, charter, ordinance, rule, regulation, order, Consent, permit, license or approval of any governmental, quasi-governmental, regulatory or administrative agency or authority or court or other tribunal having jurisdiction.

"Billing Period" means each calendar month during the Delivery Term.

"Change in Law" means (A) the adoption, promulgation, issuance, modification, or official change in interpretation, after the Effective Date, of any federal, state, or local law, by-law, ordinance, code, regulation, rule, or ruling; (B) the imposition, after the Effective Date, of any condition on the issuance, reissuance, or continued effectiveness of any permit, license, or approval relating to the Recovery Facility which establishes requirements more burdensome than those (i) imposed as of the Effective Date or (ii) proposed in any application for permits, licenses, or approvals relating to the Recovery Facility or the pending before any regulatory authority on the Effective Date; or (C) the order or judgment or other action of any federal, state or local court, administrative agency, or governmental body relating to the Recovery Facility, including the suspension, termination, interruption, or non-renewal of any permit, license, consent, authorization, or approval affecting the acquisition, design, construction, equipping, start-up, operation, maintenance, ownership, use, or possession of any part of the Recovery Facility, if not the result of Covanta's willful or negligent action or the failure of Covanta to act in accordance with this Agreement or applicable law in effect as of the Effective Date; provided, however, that the contesting in good faith of any such suspension, termination, interruption or non-renewal shall not constitute or be construed to constitute a willful or negligent action or inaction; provided, further, that for purposes of clause (A) above, no pending legislation or proposed or draft law, by-law, ordinance, code, regulation, rule, or ruling circulated or published for review and comment, or official announcement of anticipated changes in rules, regulations or interpretive position, which by its terms or by operation of law is not immediately effective, shall be considered to have been adopted, promulgated, or issued, and no announced modification or official change in interpretation similarly not immediately effective shall be deemed to have occurred, prior to the date that it becomes effective, either temporarily or permanently, notwithstanding the existence of provisions therein purporting to make such law, by-law, ordinance, code, regulation, rule or ruling or modification or change in interpretation thereof effective retroactively as of some earlier date.

"Change in Law Costs" means, for any twelve-month period, the sum of:

- (i) the amount, if any, of the estimated decreased revenues from:
 - (A) the sale of steam or electricity generated by the Recovery Facility,
 - (B) the disposal of solid waste at the Recovery Facility, and
 - (C) the sale of metals recovered by the Recovery Facility, resulting from a Change in Law, and
- (ii) the amount, if any, of the estimated increased operating and capital costs of the Recovery Facility resulting from a Change in Law; provided, however, that Change in Law Costs shall not include any costs resulting from increases in the amount of any income tax payable by or on behalf of Covanta or any affiliated entity (other than a new or increased tax specifically imposed upon or borne by solid waste disposal facilities, electric generation facilities, resource recovery facilities or other similar facilities, or by the owners or operators of any such facilities). For purposes of this definition, the annual amount of increased capital costs shall include the projected annual debt service on indebtedness incurred to finance such capital costs and, to the extent Covanta financed the cost thereof without incurring debt, amortization of the cost thereof at an assumed interest rate equal to the Prime Rate at the time the capital cost is incurred over the useful life of the improvements with respect to which such capital costs were incurred.

"Consent" means any consent, approval, authorization, waiver, permit, grant, franchise, concession, agreement, license, exemption or order of, registration, certificate, declaration or filing with, or report or notice to, any governmental, quasi-governmental, regulatory or judicial body, entity, authority or tribunal.

"Construction and Demolition Waste" means wastes from construction and demolition operations and shall include, but shall not be limited to concrete, bricks, plumbing fixtures, plastics, and lumber.

"Delivery Term" means the period of time commencing on the Effective Date and ending on 11:59 p.m. of the day immediately preceding the tenth (10th) anniversary of the Effective Date, or, if extended by Coweta in accordance with the terms of Section 2.04 on 11:59 p.m. of the day immediately preceding the twelfth (12th) anniversary of the Effective Date, or, if further extended by Coweta in accordance with the terms of Section 2.04 on 11:59 p.m. of the day immediately preceding the fourteenth (14th) anniversary of the Effective Date; provided, however, that: (i) the Delivery Period shall not occur if this Agreement is terminated by Covanta pursuant to Section 6.03(b)(iv) or Section 6.03(b)(v) hereof. In no event, shall the Delivery Term exceed twenty (14) years.

“Effective Date” means the first date above written.

“Eligible Disaster Debris” means Eligible Disaster Debris shall mean vegetative waste, qualifying for and meeting the most current stipulated requirements for debris removal reimbursement as stipulated by Federal Emergency Management Agency.

“FOB” means freight on board.

“Hazardous Waste” shall have the meaning set forth in Oklahoma Statutes §27A-2-7-103, as amended from time to time.

“Indemnifying Party,” “Indemnified Party,” and **“Indemnified Parties”** have the meanings specified in Section 5.02 hereof.

“Loss” and **“Losses”** have the meanings specified in Section 5.02 hereof.

“ODEQ” means the Oklahoma Department of Environmental Quality

“Recovery Facility Receiving Times” means Monday through Friday from 5:30 a.m. to 5:30 p.m. Central time, exclusive of Holidays, or such other times as specified by Covanta upon thirty (30) days prior written notice. For the purpose of this Agreement, a Holiday means the following:

- a. New Year’s Day;
- b. Memorial Day;
- c. Independence Day;
- d. Labor Day;
- e. Thanksgiving Day; and
- f. Christmas Day.

If a Holiday occurs on a Monday through Friday, Covanta shall operate the Recovery Facility on Saturday from 6:00 a.m., Central Time to 2:00 p.m. Central time. Notwithstanding the previous, the Recovery Facility shall not receive Acceptable Solid Waste during scheduled Recovery Facility outages for which Covanta has given the Coweta at least thirty (30) days advance written notice.

Coweta will be assigned Driver Assisted Terminal (DAT) cards for each vehicle which will allow twenty-four (24) hour per day access to the Recovery Facility.

“Term” has the meaning specified in Section 7.01 hereof.

“Ton” means a "short ton" of 2,000 pounds.

“Unacceptable Recovery Facility Waste” means: Unacceptable Waste shall mean Eligible Disaster Debris; Hazardous Waste; Construction and Demolition Waste; poisons; acids; caustics; explosives; body wastes; automobile frames; materials which may cause damage to the Recovery Facility or Recovery Facility personnel; animal excreta or any article or substances

soiled by human or animal excreta that has not been wrapped and tightly sealed in moisture proof paper or wrapping; refuse which has been combined or mixed with any of the above-mentioned items; and any materials which cannot be processed at the Recovery Facility, which can cause the Recovery Facility operations problems, which would have a reasonable possibility of causing injury to health, safety, or property, or are prohibited by Applicable Law or Recovery Facility Consent requirements.

“Uncontrollable Circumstance” or “UCC” means any act, event or condition, occurring on or after the Effective Date, that has had, or may reasonably be expected to have, a material adverse effect on the rights or the obligations of a Party under this Agreement, or a material adverse effect on the Recovery Facility, if such act, event or condition is beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party under this Agreement. UCCs may include, but shall not be limited to, the following:

(a) an act of God, landslide, lightning, earthquake, fire, explosion, flood, acts of a public enemy, war, blockade, insurrection, riot or civil disturbance or any similar occurrence;

(b) the order and/or judgment of a federal, state or local court, administrative agency or governmental body;

(c) the suspension, termination, interruption, denial or failure of renewal of any Consent essential to the operation of the Recovery Facility;

(d) a labor dispute, strike, work slowdown or work stoppage involving essential employees or contractors;

(e) a change in law;

(f) the partial or entire loss of, inability to obtain, or delay in the provision of any utility services, including water, sewerage, fossil fuels and electric power, necessary for operation of the Recovery Facility or blockage of access to the Recovery Facility;

(g) the inability of Covanta to obtain required supplies from anywhere within the continental United States; or

(h) the condemnation, taking, seizure, involuntary conversion or requisition of title to or use of the Recovery Facility or any portion thereof by action of any federal, state, county or local governmental, quasi-governmental or regulatory agency or authority.

ARTICLE II - DELIVERY AND ACCEPTANCE OF WASTE

2.01 Acceptable Recovery Facility Waste. Subject to the provisions of Section 2.05, during the Delivery Term, Coweta may deliver or cause to be delivered FOB the Recovery Facility, and Covanta shall accept, Acceptable Recovery Facility Waste generated within the

municipal boundaries of Coweta; provided, that, if, for any reason, Covanta is unable to accept Acceptable Recovery Facility Waste generated within the boundaries of Coweta for disposal at the Recovery Facility during a calendar year during the Delivery Term, Covanta may divert, and Coweta may deliver, at its own cost, such Acceptable Recovery Facility Waste to an alternative location of Coweta' choosing. On or before July 1st of each calendar year during the Delivery Term, Coweta shall provide to Covanta, upon an official written request from Covanta, a written estimate of the aggregate amount of Tons of Acceptable Recovery Facility Waste to be delivered to the Recovery Facility by or on behalf of Coweta during the next succeeding calendar year, and Coweta shall use commercially reasonable efforts to cause all such Acceptable Recovery Facility Waste to be delivered to the Recovery Facility approximately ratably throughout the year, subject to seasonal fluctuations in waste flow. Coweta shall deliver or cause to be delivered Acceptable Recovery Facility Waste to the Recovery Facility during Recovery Facility Receiving Times, and shall comply with the hauler's rules and regulations of the Recovery Facility, as those rules and regulations are generally applied and are amended from time to time by Covanta, in the delivery and disposal of Acceptable Recovery Facility Waste at the Recovery Facility.

2.02 Weighing of Waste Deliveries. Covanta shall cause to be maintained weighing facilities at the Recovery Facility for the purpose of determining the total tonnage of Acceptable Recovery Facility Waste delivered to the Recovery Facility. The weighing facilities at the Recovery Facility shall be tested for accuracy at least once each calendar year, at the expense of the Recovery Facility of such weighing facilities, and a copy of the most recent test results shall be disclosed to the other Party upon request.

2.03 Inadvertent Deliveries of Unacceptable Recovery Facility Waste; Removal of Same; Title. Covanta may inspect each delivery to the Recovery Facility made by or on behalf of Coweta and may weigh the delivery vehicle both before and after it is unloaded. Subject to Applicable Law, Covanta may reject any portion of a delivery by or on behalf of Coweta that Covanta determines does not constitute Acceptable Recovery Facility Waste, either before or after said delivery has been emptied from the delivery vehicle, and in conjunction with such rejection, Covanta may also reject the entire contents of a delivery vehicle if Covanta determines that a portion is Unacceptable Recovery Facility Waste. Covanta further may remove from the Recovery Facility, transport and dispose of all Unacceptable Recovery Facility Waste delivered by or on behalf of Coweta, as Coweta's agent and at Coweta's expense. Removal, transport and disposal of Unacceptable Recovery Facility Waste shall be accomplished in accordance with Applicable Laws. Title to Unacceptable Recovery Facility Waste never shall pass to Covanta; title to Acceptable Recovery Facility Waste shall pass to Covanta after inspection and acceptance at the Recovery Facility by Covanta.

2.04 Optional Renewal. After the fourth (4th) anniversary of the Effective Date, Coweta shall have the option to renew this Agreement for up to two (2) additional two (2) year optional renewal terms. Covanta may prohibit Coweta from exercising an optional renewal term by providing written notice to Coweta to reject a renewal or additional renewal on or before twelve (12) months preceding the date written above in this Section 2.04, or if this Agreement has been renewed, the then current optional renewal term of this Agreement. If Covanta does not provide such written notice to Coweta on or before twelve (12) months preceding the scheduled

date of expiration of the term written in the first sentence of this Section 2.04 or the then current optional renewal term of this Agreement prohibiting Coweta from exercising the optional renewal term, Coweta may upon written notice to Covanta not later than one hundred twenty (120) calendar days preceding such date or the then current optional renewal term of this Agreement exercise such optional renewal term by such notice. This provision in no way limits Authority's right to terminate this Agreement at any time during the Delivery Term.

ARTICLE III - SERVICE AND TIP FEE PAYMENTS

3.01 Service and Tip Fees. As compensation for the services to be rendered hereunder, for which Covanta shall invoice Coweta on a monthly basis as provided in Section 3.02: Coweta shall pay to Covanta the Acceptance Fee as written herein.

3.02 Billing. Covanta shall provide to Coweta an invoice for each calendar month during the Term for any amounts owed hereunder by Coweta to Covanta within ten (10) days of the end of such calendar month, and Coweta shall pay, reasonably dispute or partially pay and partially reasonably dispute the invoice within thirty (30) days after its receipt thereof. Covanta shall invoice Coweta at the address set forth in Article VII in accordance with the following procedures:

- (a) The invoice shall set forth the total tonnage of Acceptable Recovery Facility Waste delivered by or on behalf of Coweta to the Recovery Facility as weighed upon delivery to the Recovery Facility.
- (b) The invoice shall set forth a calculation showing the Acceptance Fee multiplied by the number of Tons of Acceptable Recovery Facility Waste and the calculation and a reasonably-detailed description of any other amounts claimed to be due to Covanta from Coweta hereunder.
- (c) All such invoices submitted shall be generated on the basis of the official weigh scale records or tickets as of the delivery to the Recovery Facility.
- (d) The Parties shall provide to each other copies of all delivery and weight records in their possession and control of all hauling vehicles used in the performance of the services hereunder and a monthly data file of all transactions. Copies of all such daily delivery and weight records shall be maintained by the Parties for at least one (1) year beyond the termination or expiration of this Agreement.
- (e) Covanta shall provide any other documentation reasonably requested by Coweta to substantiate each invoice.

3.03 Books and Records. Each Party shall cause those of its books and records relating to the quantity of Acceptable Recovery Facility Waste delivered by or on behalf of Coweta and accepted by Covanta to be available to representatives of the other Party for inspection upon reasonable notice and during normal business hours. All such inspections shall be conducted in such manner as not to cause interference with the operation of the Recovery

Facility and such representatives shall comply with all reasonable rules adopted by the Party whose books and records are being inspected, or the owners or operators of the location where such books and records are made available, including rules relating to maintaining the safety of those persons present on the site where the books and records are located.

ARTICLE IV: REPRESENTATIONS AND COVENANTS

4.01 Coweta Representations. Coweta hereby represents and warrants to Covanta as follows:

(a) Coweta has developed the requisite expertise for performing the work required of it hereunder (including but not limited to the delivery of Acceptable Recovery Facility Waste to the Recovery Facility), has adequate resources and equipment in good working order together with fully trained and experienced personnel capable of performing the services required of it hereunder in a good and professional manner and in accordance with this Agreement, and exhibits the standard of care and skill normally exercised by professional contractors performing the same type of services. Coweta has obtained all Consents required to comply with all Applicable Law in the performance of the services required of it hereunder, and such Consents are valid and in full force and effect.

(b) Neither the execution nor the delivery by Coweta of this Agreement nor the performance by Coweta of its obligations hereunder (1) conflicts with, violates or results in a breach of any Applicable Law, or (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement, order or instrument to which Coweta is a party or by which Coweta is bound, or constitutes a default under any such judgment, decree, agreement, order or instrument.

4.02 Covanta Representations. Covanta hereby represents and warrants to Coweta as follows:

(a) Covanta is engaged in the solid waste disposal business, has developed the requisite expertise for performing that work, has adequate resources and equipment in good working order together with fully trained and experienced personnel capable of performing the services required of it hereunder in a good and professional manner and in accordance with this Agreement, and exhibits the standard of care and skill normally exercised by professional contractors performing the same type of services. Covanta has obtained all Consents required to comply with all Applicable Law to the performance of the services required of it hereunder, and such Consents are valid and in full force and effect.

(b) The Recovery Facility is in compliance in all material respects with all Applicable Law. Covanta has obtained all Consents required to comply with all Applicable Law applicable to the Recovery Facility and the performance of the services required of Covanta hereunder and such Consents are valid and in full force and effect.

(c) Neither the execution nor the delivery by Covanta of this Agreement nor the performance by Covanta of its obligations hereunder (1) conflicts with, violates or results in a breach of any Applicable Law, or (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement, order or instrument to which Covanta is a party or by which Covanta is bound, or constitutes a default under any such judgment, decree, agreement, order or instrument.

4.03 Coweta Covenants. In addition to and without restricting in any way any other obligations or covenants set forth herein, Coweta covenants and agrees as follows:

(a) Coweta shall perform its obligations hereunder in a good, safe and workmanlike manner and in accordance with sound environmental practices.

(b) Upon reasonable written notice, Coweta shall provide to Covanta copies of all Consents issued to Coweta which are applicable to the services to be provided by Coweta hereunder.

(c) Coweta shall comply with all Applicable Law applicable to the services to be provided by Coweta hereunder.

(d) Coweta shall promptly notify Covanta of the occurrence of any event, condition, or occurrence, or legal, judicial, or regulatory proceedings that may result in: (1) the material noncompliance with any Applicable Law, but only if such noncompliance materially affects the ability of Coweta to provide the services to be provided by Coweta hereunder; (2) any material inaccuracy of, or material noncompliance with, any representations, warranties or covenants by Coweta in this Agreement; or (3) a material adverse effect upon the business, operations or affairs of Coweta or that may materially adversely affect the ability of Coweta to supply the services to be provided by Coweta hereunder.

4.04 Covanta Covenants. In addition to and without restricting in any way any other obligations or covenants set forth herein, Covanta covenants and agrees as follows:

(a) Covanta shall perform its obligations hereunder in a good, safe and workmanlike manner and in accordance with sound environmental practices.

(b) Upon reasonable written notice, Covanta shall provide to Coweta copies of all Consents issued to Covanta which are applicable to the Recovery Facility or the services to be provided by Covanta hereunder.

(c) Covanta shall (and shall cause the Recovery Facility to) comply with all Applicable Law applicable to the services to be provided by Covanta hereunder.

(d) Covanta shall promptly notify Coweta of the occurrence of any event, condition, or occurrence, or legal, judicial, or regulatory proceedings that may result in: (1) the material noncompliance with any Applicable Law, but only if such noncompliance materially affects the ability of Covanta to provide the services to be provided by Covanta hereunder; (2) any material

inaccuracy of, or material noncompliance with, any representations, warranties or covenants by Covanta in this Agreement; or (3) a material adverse effect upon the business, operations or affairs of Covanta that materially affects the ability of Covanta to provide the services to be provided by Covanta hereunder.

ARTICLE V - INSURANCE & INDEMNITY

5.01 Insurance.

(a) Covanta obtain and maintain continuously at its own expense through the Delivery Term, and furnish to the other Party certificates attesting to the existence of, the following minimum insurance:

(i) Workers' Compensation Insurance as prescribed or permitted by Applicable Law; Employers liability in the amount of \$1,000,000 each accident

(ii) Commercial General Liability and Property Damage Insurance, with Contractual Liability and Products/Completed Operations coverage, with primary limits of liability of \$1,000,000, combined occurrence, for bodily injury and property damage.

(iii) Commercial Automobile Liability Insurance as required by Applicable Law, but with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage, combined single limit

(iv) Commercial Pollution Legal Liability Insurance with limits of liability as follows: Covanta - \$5,000,000 per claim.

(v) Excess Liability Insurance with limits of not less than \$5,000,000 per occurrence, supplementing the primary insurances required by (i), (ii) and (iii) above.

(b) Covanta shall maintain insurance coverage for all such policies allowed under the Oklahoma Governmental Tort Claims Act, up to the limit of liability under such statute.

(c) Each Party shall cause the aforementioned policies of insurance (other than the workers' compensation insurance and employers liability) to be duly and properly endorsed by the insurance underwriter to (i) provide an endorsement naming as additional insureds, and waiving subrogation in favor of, the other Party, its affiliates, and their respective owners, directors, employees and agents. Each Party shall provide (30) days prior written notice to the other if any of the policies are cancelled or non-renewed. If any of such insurance policies are written on a "claims-made" basis, upon termination or cancellation of such policy, whether during or after the Term, the Party shall be responsible for purchasing "tail" insurance coverage for acts and omissions occurring during the Delivery Term. Such tail insurance coverage must remain in place for three (3) years following completion of the Term. Each Party shall provide the other Party with a certificate of insurance issued by the insurance carrier or its agent evidencing that all insurance coverage. From time to time, as reasonably requested by the other

Party and upon each change in the insurance carried by a Party, such Party will provide the other Party with evidence that the insurance required hereunder is in place. Nothing in this Article V shall be construed to in any way limit Coweta's liability under the indemnity, or any other obligation of Coweta under this Agreement.

5.02 Indemnity. To the fullest extent permitted by Applicable Law, each Party (the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party, its parent companies, partners, affiliates and subsidiary companies and their respective directors, officers, employees, agents, contractors, subcontractors, representatives, successors and assigns (each of the foregoing, an "**Indemnified Party**" and, collectively, the "**Indemnified Parties**"), from and against any and all claims, losses, liabilities, damages, fines, penalties, taxes, interest, fees, costs, or expenses (including, without limitation, reasonable attorneys' fees) (each, a "**Loss**" and collectively the "**Losses**") to the extent resulting or arising from (i) the acts, errors or omissions of the Indemnifying Party, its employees, agents, directors, officers, contractors or subcontractors; (ii) the breach of any representation, warranty, covenant or agreement of the Indemnifying Party under this Agreement; and/or (iii) the enforcement of this indemnity; provided, however, that the Indemnifying Party shall not be obligated to provide the indemnification hereunder to the extent that a Loss is caused by the negligence or willful misconduct of the Indemnified Party seeking indemnification. Neither Party shall have any liability to the other under this Agreement for any special, consequential, punitive, indirect or incidental damages, including loss of use, loss or delayed receipt or revenues, loss of anticipated profits, cost of capital loss of goodwill or similar damages.

ARTICLE VI - DEFAULT AND TERMINATION

6.01 Covanta Events of Default. Each of the following shall constitute an "**Event of Default**" by Covanta:

(a) Covanta shall fail to accept from Coweta the Acceptable Recovery Facility Waste Covanta has committed to accept hereunder;

(b) Covanta shall breach any material representation, warranty, covenant or agreement under this Agreement or shall fail to timely perform any other material obligation under this Agreement; or

(c) Covanta shall be or become bankrupt or make an arrangement with or for the benefit of its creditors or consent to or acquiesce in the appointment of a receiver, trustee or liquidator for a substantial part of its property, or (ii) a bankruptcy, winding up, reorganization, insolvency arrangement or similar proceeding shall be instituted by or against Covanta under the laws of any jurisdiction, which proceeding has not been dismissed within ninety (90) days, or (iii) any action or answer shall be taken or filed by Covanta approving of, consenting to, or acquiescing in, any such proceeding, or (iv) the levy of any distress, execution or attachment upon the property of Covanta which shall substantially interfere with its performance hereunder.

6.02 Coweta Events of Default. Each of the following shall constitute an "**Event of Default**" by Coweta:

(a) Coweta shall fail to pay amounts owed to Covanta under this Agreement within thirty (30) days following receipt of an invoice from Covanta therefor;

(b) Coweta shall breach any material representation, warranty, covenant or agreement under this Agreement or shall fail to timely perform any other material obligation under this Agreement; or

(c) Coweta shall be or become bankrupt or make an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property, or (ii) a bankruptcy, winding up, reorganization, insolvency arrangement or similar proceeding shall be instituted by or against Coweta under the laws of any jurisdiction, which proceeding has not been dismissed within ninety (90) days, or (iii) any action or answer shall be taken or filed by Coweta approving of, consenting to, or acquiescing in such proceeding, or (iv) the levy of any distress, execution or attachment upon the property of Coweta which shall substantially interfere with its performance hereunder.

6.03 Remedies. An Event of Default described in Section 6.01 and 6.02 shall become a “*Default*” under this Agreement if not cured within sixty (60) days after written notification to the defaulting Party from the other Party describing in reasonable detail the nature of the Event of Default; provided, however, that such forty-five-day period shall be extended for up to an additional ninety (90) days so long as the breaching Party is actively and continuously pursuing good faith efforts to cure the Event of Default; provided, further, that an Event of Default of the character described in Sections 6.01(c) and 6.02(c) shall be a “*Default*” immediately, with or without delivery of such notice.

(a) Termination by Coweta. Coweta shall have the right to terminate this Agreement by delivering written notice to Covanta if: (i) Covanta shall be in Default under Sections 6.01 and 6.03 (Coweta shall also be permitted to recover actual damages resulting from any such Default); or (ii) there is one or more UCCs; or (iii) there is one or more Changes in Law, or a surcharge or surcharges based upon one or more Changes in Law (but only if the aggregate amount of the surcharge(s) over the Term would total at least five hundred thousand dollars (\$500,000)), affecting Coweta, by delivering a written notice to Covanta. This Agreement shall terminate on the forty-fifth (45th) day following the date of such notice; provided, however, that a Default described in Section 6.01(c) shall not require notice by Coweta and shall terminate this Agreement forthwith.

(b) Termination by Covanta. Covanta shall have the right to terminate this Agreement by delivering written notice to Coweta if: (i) Coweta shall be in Default under Sections 6.02 and 6.03 (Covanta shall also be permitted to recover actual damages resulting from any such Default); (ii) there is a UCC affecting Covanta, the Recovery Facility, and/or the Affiliates; or (iii) there is a Change in Law affecting Covanta, the Recovery Facility, and/or the Affiliates. This Agreement shall terminate on the forty-fifth (45th) day following the date of such notice; provided, however, that a Default described in Section 6.02(c) hereof shall not require notice by Covanta and shall terminate this Agreement forthwith.

(c) **Damages.** Except as otherwise provided in this Article VI, neither Party shall have the right to terminate this Agreement or to require specific performance by the other Party and damages shall ordinarily be considered an adequate remedy for a Default by either Party under this Agreement.

6.04 General.

(a) Section 3.04 and Articles V, VI and VII shall survive the termination or expiration of this Agreement.

(b) The waiver of any Default by either Party, or the failure to give notice of any Event of Default in accordance with the first paragraph of Section 6.03, with respect to any Default or Event of Default shall not constitute a waiver of that or any subsequent Default or Event of Default or be deemed to be a failure to give such notice with respect to any subsequent Event of Default.

6.05 No Liability for UCC. Except for any obligation to pay money, neither Party shall be liable to the other for any failure or delay in performance of any obligation under this Agreement due to the occurrence of a UCC. The Party whose performance under this Agreement has been affected by a UCC shall provide prompt notice of the commencement and the cessation of such UCC to the other Party. Whenever a UCC shall occur, the Party claiming to be adversely affected thereby shall perform in accordance with this Agreement to the extent not adversely affected by such UCC (subject to the requirements of other contracts effective prior to the date hereof) and shall, as quickly as reasonably possible, attempt to eliminate the cause therefor, reduce costs and resume performance under this Agreement.

ARTICLE VII – MISCELLANEOUS

7.01 Term. Unless sooner terminated in accordance with the terms hereof, this Agreement shall commence on the Effective Date and shall continue in effect until the end of the Delivery Term (the “Term”).

7.02 Assignment and Subcontracting. This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either Party may assign this Agreement, without the prior written consent of the other Party, whether by operation of law, merger or otherwise, to any Affiliate, subsidiary, parent, or successor; provided, further, that no such assignment shall release the assigning Party from its obligations under this Agreement, unless the other Party expressly releases the assigning Party in writing.

7.03 Further Assurances. Each Party agrees to execute and deliver any instrument and to perform any acts that may be necessary or reasonably requested in order to give full effect to this Agreement.

7.04 Relationship of the Parties. Except as otherwise explicitly provided herein, no Party shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by the other Party and nothing in this Agreement shall be deemed to constitute any Party a partner, agent or legal representative of any other Party nor to create any fiduciary relationship between or among the Parties.

7.05 Notices. Except as otherwise expressly provided in this Agreement, any notices or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid, by commercial overnight courier, by telecopy (receipt confirmed) or by electronic mail as follows:

If to Covanta:

Covanta WBH, LLC
Tulsa, OK 74107
Phone: 918-699-0011
Fax: 918-699-0017
Attn: Matthew Newman, Director, Business Development
Email: MNewman@CovantaEnergy.com

With a copy to:

Covanta Energy Corporation
445 South Street
Morristown, New Jersey 07960
Phone: (862) 345-5148
Fax: (862) 345-5140
Attn: Christopher Cunico
Email: ccunico@CovantaEnergy.com

If to Coweta via United States Postal Service mail/telecopy/electronic mail:

Coweta Public Works Authority
Attn: Trust Manager
PO Box 850
Coweta, OK 74429-0850

If to Coweta via commercial overnight courier:

Coweta Public Works Authority
Attn: Trust Manager
310 South Broadway
Coweta, OK 74429

With a copy to:

Mr. David Weatherford
Trust Attorney
Birmingham, Morley, Weatherford et. al.
1141 East 37th Street
Tulsa, OK 74105

Changes in the respective addresses to which such notices may be directed may be made from time to time by any Party by written notice to the other Party.

7.06 Waiver. The waiver by either Party of a default or a breach of any provision of this Agreement by the other Party shall not operate or be construed to operate as a waiver of any other provision or subsequent default or breach. The making or the acceptance of a payment by either Party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of that or any subsequent default or breach.

7.07 Modifications. The provisions of this Agreement shall (a) constitute the entire agreement between the Parties, and (b) be modified only in writing duly executed by the Party to be bound.

7.08 Headings. Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

7.09 Governing Law/Dispute Resolution. This Agreement and any question concerning its validity, construction or performance shall be governed by Oklahoma law, irrespective of the principles of conflicts of law. The Parties agree that any controversy, dispute or claim arising out of or relating to this Agreement or a breach of any of the terms or conditions of this Agreement, which cannot be resolved by the Parties within thirty (30) days after written notice by either party, shall be submitted to non-binding arbitration by a single arbitrator in Tulsa, OK as provided by the American Arbitration Association or, if mutually agreed to by the Parties, other organization or body. The cost of any arbitration proceeding under this provision shall be shared equally by the parties, and each Party shall be responsible for its own attorney's fees. The Parties agree that all of the negotiations and arbitration proceedings relating to such disputes and all testimony, transcripts and other documents relating to such arbitration shall be treated as confidential and will not be disclosed or otherwise divulged to any other person except as necessary in connection with such negotiations and arbitration proceedings. Notwithstanding anything to the contrary in this Section, the Parties shall have the right to seek temporary, preliminary and permanent equitable relief including, without limitation, injunctive relief and specific performance, to prevent any breach or threatened breach of this Agreement.

7.10 Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original, but all of which shall be deemed the same instrument. Facsimile and portable document format (PDF) copies of signatures shall be deemed original signatures.

7.11 Severability. If any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.

7.12 Interest on Overdue Payments. All payments to be made under this Agreement outstanding after the applicable due date shall bear interest at the maximum lawful rate, or 1.5% per month, whichever rate is lower.

7.13 C.A.R.E. Program. Covanta and Coweta shall agree to develop two (2) Coweta Cleanup Days as part of Coweta' C.A.R.E. program, with one such day occurring during the spring and one during the fall of each year of the Term, wherein Covanta will allow disposal of approved household items at the Recovery Facility, through a program managed by Coweta, at no charge to Coweta.

[Signature page to follow.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as an instrument under seal by their duly authorized representatives as of the day and year first above written.

COVANTA TULSA RENEWABLE ENERGY LLC

By: Michael A. McDonald
[Name] Michael A. McDonald
[Title] Marketing Manager

COWETA Municipal Public Works Authority

By: Steven C. Whitlock
Steven C. Whitlock
Trust Manager

By: Joyce Terry
Joyce Terry
Trust Secretary