

AGREEMENT

35086

THIS AGREEMENT is made and entered, in duplicate, as of October 4, 2018, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on October 2, 2018, by and between CONSOLIDATED DISPOSAL SERVICE, L.L.C., a Delaware limited liability company ("Consultant"), with a place of business at 2531 E. 67<sup>th</sup> Street, Long Beach, California 90805, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with municipal residential and commercial solid waste handling services ("Project"); and

WHEREAS, City has selected Consultant in accordance with City's administrative procedures and City has determined that Consultant and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Consultant perform these specialized services, and Consultant is willing and able to do so on the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. SCOPE OF WORK OR SERVICES.

A. Consultant shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services in the manner described below, not to exceed One Million Nine Hundred Eighty-Five Thousand Five Hundred Dollars (\$1,985,500), at the rates or charges shown in Exhibit "B".

B. The City's obligation to pay the sum stated above for any one

1 fiscal year shall be contingent upon the City Council of the City appropriating the  
2 necessary funds for such payment by the City in each fiscal year during the term of  
3 this Agreement. For the purposes of this Section, a fiscal year commences on  
4 October 1 of the year and continues through September 30 of the following year. In  
5 the event that the City Council of the City fails to appropriate the necessary funds  
6 for any fiscal year, then, and in that event, the Agreement will terminate at no  
7 additional cost or obligation to the City.

8 C. Consultant may select the time and place of performance for  
9 these services; provided, however, that access to City documents, records and the  
10 like, if needed by Consultant, shall be available only during City's normal business  
11 hours and provided that milestones for performance, if any, are met.

12 D. Consultant has requested to receive regular payments. City  
13 shall pay Consultant in due course of payments following receipt from Consultant  
14 and approval by City of invoices showing the services or task performed, the time  
15 expended (if billing is hourly), and the name of the Project. Consultant shall certify  
16 on the invoices that Consultant has performed the services in full conformance with  
17 this Agreement and is entitled to receive payment. Each invoice shall be  
18 accompanied by a progress report indicating the progress to date of services  
19 performed and covered by the invoice, including a brief statement of any Project  
20 problems and potential causes of delay in performance, and listing those services  
21 that are projected for performance by Consultant during the next invoice cycle.  
22 Where billing is done and payment is made on an hourly basis, the parties  
23 acknowledge that this arrangement is either customary practice for Consultant's  
24 profession, industry or business, or is necessary to satisfy audit and legal  
25 requirements which may arise due to the fact that City is a municipality.

26 E. Consultant represents that Consultant has obtained all  
27 necessary information on conditions and circumstances that may affect its  
28 performance and has conducted site visits, if necessary.

1 F. CAUTION: Consultant shall not begin work until this  
2 Agreement has been signed by both parties and until Consultant's evidence of  
3 insurance has been delivered to and approved by City.

4 2. TERM. The term of this Agreement shall commence at midnight on  
5 November 1, 2018, and shall terminate at 11:59 p.m. on October 31, 2020, unless sooner  
6 terminated as provided in this Agreement, or unless the services or the Project is  
7 completed sooner. The term may be extended for three (3) additional one-year periods, at  
8 the discretion of the City Manager.

9 3. COORDINATION AND ORGANIZATION.

10 A. Consultant shall coordinate its performance with City's  
11 representative, if any, named in Exhibit "C", attached to this Agreement and  
12 incorporated by this reference. Consultant shall advise and inform City's  
13 representative of the work in progress on the Project in sufficient detail so as to  
14 assist City's representative in making presentations and in holding meetings on the  
15 Project. City shall furnish to Consultant information or materials, if any, described  
16 in Exhibit "D", attached to this Agreement and incorporated by this reference, and  
17 shall perform any other tasks described in the Exhibit.

18 B. The parties acknowledge that a substantial inducement to City  
19 for entering this Agreement was and is the reputation and skill of Consultant's key  
20 employee, named in Exhibit "E" attached to this Agreement and incorporated by this  
21 reference. City shall have the right to approve any person proposed by Consultant  
22 to replace that key employee.

23 4. INDEPENDENT CONTRACTOR. In performing its services,  
24 Consultant is and shall act as an independent contractor and not an employee,  
25 representative or agent of City. Consultant shall have control of Consultant's work and the  
26 manner in which it is performed. Consultant shall be free to contract for similar services to  
27 be performed for others during this Agreement; provided, however, that Consultant acts in  
28 accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges

1 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;  
2 (b) City will not secure workers' compensation or pay unemployment insurance to, for or  
3 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any of  
4 the usual and customary rights, benefits or privileges of City employees. Consultant  
5 expressly warrants that neither Consultant nor any of Consultant's employees or agents  
6 shall represent themselves to be employees or agents of City.

7                   5.     INSURANCE.

8                   A.     As a condition precedent to the effectiveness of this  
9 Agreement, Consultant shall procure and maintain, at Consultant's expense for the  
10 duration of this Agreement, from insurance companies that are admitted to write  
11 insurance in California and have ratings of or equivalent to A:V by A.M. Best  
12 Company or from authorized non-admitted insurance companies subject to Section  
13 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII  
14 by A.M. Best Company, the following insurance:

15                   i.     Commercial general liability insurance (equivalent in  
16 scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less  
17 than \$1,000,000 per each occurrence and \$2,000,000 general aggregate.  
18 This coverage shall include but not be limited to broad form contractual  
19 liability, cross liability, independent contractors liability, and products and  
20 completed operations liability. City, its boards and commissions, and their  
21 officials, employees and agents shall be named as additional insureds by  
22 endorsement (on City's endorsement form or on an endorsement equivalent  
23 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or both CG 20 10  
24 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and CG 20 37 07 04),  
25 and this insurance shall contain no special limitations on the scope of  
26 protection given to City, its boards and commissions, and their officials,  
27 employees and agents. This policy shall be endorsed to state that the insurer  
28 waives its right of subrogation against City, its boards and commissions, and

1           their officials, employees and agents.

2                   ii.       Workers' Compensation insurance as required by the  
3           California Labor Code and employer's liability insurance in an amount not  
4           less than \$1,000,000. This policy shall be endorsed to state that the insurer  
5           waives its right of subrogation against City, its boards and commissions, and  
6           their officials, employees and agents.

7                   iii.       Professional liability or errors and omissions insurance  
8           in an amount not less than \$1,000,000 per claim.

9                   iv.       Commercial automobile liability insurance (equivalent in  
10          scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in  
11          an amount not less than \$500,000 combined single limit per accident.

12           B.    Any self-insurance program, self-insured retention, or  
13   deductible must be separately approved in writing by City's Risk Manager or  
14   designee and shall protect City, its officials, employees and agents in the same  
15   manner and to the same extent as they would have been protected had the policy  
16   or policies not contained retention or deductible provisions.

17           C.    Each insurance policy shall be endorsed to state that coverage  
18   shall not be reduced, non-renewed or canceled except after thirty (30) days prior  
19   written notice to City, shall be primary and not contributing to any other insurance  
20   or self-insurance maintained by City, and shall be endorsed to state that coverage  
21   maintained by City shall be excess to and shall not contribute to insurance or self-  
22   insurance maintained by Consultant. Consultant shall notify City in writing within  
23   five (5) days after any insurance has been voided by the insurer or cancelled by the  
24   insured.

25           D.    If this coverage is written on a "claims made" basis, it must  
26   provide for an extended reporting period of not less than one hundred eighty (180)  
27   days, commencing on the date this Agreement expires or is terminated, unless  
28   Consultant guarantees that Consultant will provide to City evidence of uninterrupted,

1 continuing coverage for a period of not less than three (3) years, commencing on  
2 the date this Agreement expires or is terminated.

3 E. Consultant shall require that all subconsultants or contractors  
4 that Consultant uses in the performance of these services maintain insurance in  
5 compliance with this Section unless otherwise agreed in writing by City's Risk  
6 Manager or designee.

7 F. Prior to the start of performance, Consultant shall deliver to City  
8 certificates of insurance and the endorsements for approval as to sufficiency and  
9 form. In addition, Consultant shall, within thirty (30) days prior to expiration of the  
10 insurance, furnish to City certificates of insurance and endorsements evidencing  
11 renewal of the insurance. City reserves the right to require complete certified copies  
12 of all policies of Consultant and Consultant's subconsultants and contractors, at any  
13 time. Consultant shall make available to City's Risk Manager or designee all books,  
14 records and other information relating to this insurance, during normal business  
15 hours.

16 G. Any modification or waiver of these insurance requirements  
17 shall only be made with the approval of City's Risk Manager or designee. Not more  
18 frequently than once a year, City's Risk Manager or designee may require that  
19 Consultant, Consultant's subconsultants and contractors change the amount, scope  
20 or types of coverages required in this Section if, in his or her sole opinion, the  
21 amount, scope or types of coverages are not adequate.

22 H. The procuring or existence of insurance shall not be construed  
23 or deemed as a limitation on liability relating to Consultant's performance or as full  
24 performance of or compliance with the indemnification provisions of this Agreement.

25 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
26 contemplates the personal services of Consultant and Consultant's employees, and the  
27 parties acknowledge that a substantial inducement to City for entering this Agreement was  
28 and is the professional reputation and competence of Consultant and Consultant's

employees. Consultant shall not assign its rights or delegate its duties under this Agreement, or any interest in this Agreement, or any portion of it, without the prior approval of City, except that Consultant may with the prior approval of the City Manager of City, assign any moneys due or to become due Consultant under this Agreement. Any attempted assignment or delegation shall be void, and any assignee or delegate shall acquire no right or interest by reason of an attempted assignment or delegation. Furthermore, Consultant shall not subcontract any portion of its performance without the prior approval of the City Manager or designee, or substitute an approved subconsultant or contractor without approval prior to the substitution. Nothing stated in this Section shall prevent Consultant from employing as many employees as Consultant deems necessary for performance of this Agreement.

7. CONFLICT OF INTEREST. Consultant, by executing this Agreement, certifies that, at the time Consultant executes this Agreement and for its duration, Consultant does not and will not perform services for any other client which would create a conflict, whether monetary or otherwise, as between the interests of City and the interests of that other client. Consultant further certifies that Consultant does not now have and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. And, Consultant shall obtain similar certifications from Consultant's employees, subconsultants and contractors.

8. MATERIALS. Consultant shall furnish all labor and supervision, supplies, materials, tools, machinery, equipment, appliances, transportation and services necessary to or used in the performance of Consultant's obligations under this Agreement, except as stated in Exhibit "D".

9. OWNERSHIP OF DATA. All materials, information and data prepared, developed or assembled by Consultant or furnished to Consultant in connection with this Agreement, including but not limited to documents, estimates, calculations,

1 studies, maps, graphs, charts, computer disks, computer source documentation, samples,  
2 models, reports, summaries, drawings, designs, notes, plans, information, material and  
3 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,  
4 and City shall have the unrestricted right to use and disclose the Data in any manner and  
5 for any purpose without payment of further compensation to Consultant. Copies of Data  
6 may be retained by Consultant but Consultant warrants that Data shall not be made  
7 available to any person or entity for use without the prior approval of City. This warranty  
8 shall survive termination of this Agreement for five (5) years.

9           10. TERMINATION. Either party shall have the right to terminate this  
10 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days  
11 prior written notice to the other party. In the event of termination under this Section, City  
12 shall pay Consultant for services satisfactorily performed and costs incurred up to the  
13 effective date of termination for which Consultant has not been previously paid. The  
14 procedures for payment in Section 1.B. with regard to invoices shall apply. On the effective  
15 date of termination, Consultant shall deliver to City all Data developed or accumulated in  
16 the performance of this Agreement, whether in draft or final form, or in process. And,  
17 Consultant acknowledges and agrees that City's obligation to make final payment is  
18 conditioned on Consultant's delivery of the Data to City.

19           11. CONFIDENTIALITY. Consultant shall keep all Data confidential and  
20 shall not disclose the Data or use the Data directly or indirectly, other than in the course of  
21 performing its services, during the term of this Agreement and for five (5) years following  
22 expiration or termination of this Agreement. In addition, Consultant shall keep confidential  
23 all information, whether written, oral or visual, obtained by any means whatsoever in the  
24 course of performing its services for the same period of time. Consultant shall not disclose  
25 any or all of the Data to any third party, or use it for Consultant's own benefit or the benefit  
26 of others except for the purpose of this Agreement.

27           12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for  
28 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates



1 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available  
2 without breach of this Agreement by Consultant; or (c) a third party who has a right to  
3 disclose does so to Consultant without restrictions on further disclosure; or (d) must be  
4 disclosed pursuant to subpoena or court order.

5 13. ADDITIONAL COSTS AND REDESIGN.

6 A. Any costs incurred by City due to Consultant's failure to meet  
7 the standards required by the scope of work or Consultant's failure to perform fully  
8 the tasks described in the scope of work which, in either case, causes City to request  
9 that Consultant perform again all or part of the Scope of Work shall be at the sole  
10 cost of Consultant and City shall not pay any additional compensation to Consultant  
11 for its re-performance.

12 B. If the Project involves construction and the scope of work  
13 requires Consultant to prepare plans and specifications with an estimate of the cost  
14 of construction, then Consultant may be required to modify the plans and  
15 specifications, any construction documents relating to the plans and specifications,  
16 and Consultant's estimate, at no cost to City, when the lowest bid for construction  
17 received by City exceeds by more than ten percent (10%) Consultant's estimate.  
18 This modification shall be submitted in a timely fashion to allow City to receive new  
19 bids within four (4) months after the date on which the original plans and  
20 specifications were submitted by Consultant.

21 14. AMENDMENT. This Agreement, including all Exhibits, shall not be  
22 amended, nor any provision or breach waived, except in writing signed by the parties which  
23 expressly refers to this Agreement.

24 15. LAW. This Agreement shall be construed in accordance with the laws  
25 of the State of California, and the venue for any legal actions brought by any party with  
26 respect to this Agreement shall be the County of Los Angeles, State of California for state  
27 actions and the Central District of California for any federal actions. Consultant shall cause  
28 all work performed in connection with construction of the Project to be performed in

1 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,  
2 county or municipal governments or agencies (including, without limitation, all applicable  
3 federal and state labor standards, including the prevailing wage provisions of sections 1770  
4 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire  
5 marshal, health officer, building inspector, or other officer of every governmental agency  
6 now having or hereafter acquiring jurisdiction.

7           16.   PREVAILING WAGES.

8           A.    Consultant agrees that all public work (as defined in California  
9 Labor Code section 1720) performed pursuant to this Agreement (the "Public  
10 Work"), if any, shall comply with the requirements of California Labor Code sections  
11 1770 *et seq.* City makes no representation or statement that the Project, or any  
12 portion thereof, is or is not a "public work" as defined in California Labor Code  
13 section 1720.

14           B.    In all bid specifications, contracts and subcontracts for any  
15 such Public Work, Consultant shall obtain the general prevailing rate of per diem  
16 wages and the general prevailing rate for holiday and overtime work in this locality  
17 for each craft, classification or type of worker needed to perform the Public Work,  
18 and shall include such rates in the bid specifications, contract or subcontract. Such  
19 bid specifications, contract or subcontract must contain the following provision: "It  
20 shall be mandatory for the contractor to pay not less than the said prevailing rate of  
21 wages to all workers employed by the contractor in the execution of this contract.  
22 The contractor expressly agrees to comply with the penalty provisions of California  
23 Labor Code section 1775 and the payroll record keeping requirements of California  
24 Labor Code section 1771."

25           17.   ENTIRE AGREEMENT. This Agreement, including all Exhibits,  
26 constitutes the entire understanding between the parties and supersedes all other  
27 agreements, oral or written, with respect to the subject matter in this Agreement.

28           18.   INDEMNITY.

1                   A.     Consultant shall indemnify, protect and hold harmless City, its  
2     Boards, Commissions, and their officials, employees and agents ("Indemnified  
3     Parties"), from and against any and all liability, claims, demands, damage, loss,  
4     obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
5     costs and expenses, arising or alleged to have arisen, in whole or in part, out of or  
6     in connection with (1) Consultant's breach or failure to comply with any of its  
7     obligations contained in this Agreement, including any obligations arising from the  
8     Project's compliance with or failure to comply with applicable laws, including all  
9     applicable federal and state labor requirements including, without limitation, the  
10    requirements of California Labor Code section 1770 *et seq.* or (2) negligent or willful  
11    acts, errors, omissions or misrepresentations committed by Consultant, its officers,  
12    employees, agents, subcontractors, or anyone under Consultant's control, in the  
13    performance of work or services under this Agreement (collectively "Claims" or  
14    individually "Claim").

15                   B.     In addition to Consultant's duty to indemnify, Consultant shall  
16    have a separate and wholly independent duty to defend Indemnified Parties at  
17    Consultant's expense by legal counsel approved by City, from and against all  
18    Claims, and shall continue this defense until the Claims are resolved, whether by  
19    settlement, judgment or otherwise. No finding or judgment of negligence, fault,  
20    breach, or the like on the part of Consultant shall be required for the duty to defend  
21    to arise. City shall notify Consultant of any Claim, shall tender the defense of the  
22    Claim to Consultant, and shall assist Consultant, as may be reasonably requested,  
23    in the defense.

24                   C.     If a court of competent jurisdiction determines that a Claim was  
25    caused by the sole negligence or willful misconduct of Indemnified Parties,  
26    Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the  
27    court determines sole negligence by the Indemnified Parties, or (2) reduced by the  
28    percentage of willful misconduct attributed by the court to the Indemnified Parties.

1 D. The provisions of this Section shall survive the expiration or  
2 termination of this Agreement.

3 19. AMBIGUITY. In the event of any conflict or ambiguity between this  
4 Agreement and any Exhibit, the provisions of this Agreement shall govern.

5 20. NONDISCRIMINATION.

6 A. In connection with performance of this Agreement and subject  
7 to applicable rules and regulations, Consultant shall not discriminate against any  
8 employee or applicant for employment because of race, religion, national origin,  
9 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or  
10 disability. Consultant shall ensure that applicants are employed, and that  
11 employees are treated during their employment, without regard to these bases.  
12 These actions shall include, but not be limited to, the following: employment,  
13 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or  
14 termination; rates of pay or other forms of compensation; and selection for training,  
15 including apprenticeship.

16 B. It is the policy of City to encourage the participation of  
17 Disadvantaged, Minority and Women-Owned Business Enterprises in City's  
18 procurement process, and Consultant agrees to use its best efforts to carry out this  
19 policy in its use of subconsultants and contractors to the fullest extent consistent  
20 with the efficient performance of this Agreement. Consultant may rely on written  
21 representations by subconsultants and contractors regarding their status.  
22 Consultant shall report to City in May and in December or, in the case of short-term  
23 agreements, prior to invoicing for final payment, the names of all subconsultants  
24 and contractors hired by Consultant for this Project and information on whether or  
25 not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as  
26 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

27 21. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
28 accordance with the provisions of the Ordinance, this Agreement is subject to the

1 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
2 Long Beach Municipal Code, as amended from time to time.

3 A. During the performance of this Agreement, the Consultant  
4 certifies and represents that the Consultant will comply with the EBO. The  
5 Consultant agrees to post the following statement in conspicuous places at its place  
6 of business available to employees and applicants for employment:

7 "During the performance of a contract with the City of Long Beach, the  
8 Consultant will provide equal benefits to employees with spouses and its  
9 employees with domestic partners. Additional information about the City of  
10 Long Beach's Equal Benefits Ordinance may be obtained from the City of  
11 Long Beach Business Services Division at 562-570-6200."

12 B. The failure of the Consultant to comply with the EBO will be  
13 deemed to be a material breach of the Agreement by the City.

14 C. If the Consultant fails to comply with the EBO, the City may  
15 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or  
16 to become due under the Agreement may be retained by the City. The City may  
17 also pursue any and all other remedies at law or in equity for any breach.

18 D. Failure to comply with the EBO may be used as evidence  
19 against the Consultant in actions taken pursuant to the provisions of Long Beach  
20 Municipal Code 2.93 et seq., Contractor Responsibility.

21 E. If the City determines that the Consultant has set up or used its  
22 contracting entity for the purpose of evading the intent of the EBO, the City may  
23 terminate the Agreement on behalf of the City. Violation of this provision may be  
24 used as evidence against the Consultant in actions taken pursuant to the provisions  
25 of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

26 22. NOTICES. Any notice or approval required by this Agreement shall  
27 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
28 postage prepaid, addressed to Consultant at the address first stated above, and to City at

1 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy  
2 to the City Engineer at the same address. Notice of change of address shall be given in  
3 the same manner as stated for other notices. Notice shall be deemed given on the date  
4 deposited in the mail or on the date personal delivery is made, whichever occurs first.

5 23. COPYRIGHTS AND PATENT RIGHTS.

6 A. Consultant shall place the following copyright protection on all  
7 Data: © City of Long Beach, California \_\_\_\_, inserting the appropriate year.

8 B. City reserves the exclusive right to seek and obtain a patent or  
9 copyright registration on any Data or other result arising from Consultant's  
10 performance of this Agreement. By executing this Agreement, Consultant assigns  
11 any ownership interest Consultant may have in the Data to City.

12 C. Consultant warrants that the Data does not violate or infringe  
13 any patent, copyright, trade secret or other proprietary right of any other party.  
14 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials  
15 and employees harmless from any and all claims, demands, damages, loss, liability,  
16 causes of action, costs or expenses (including reasonable attorney's fees) whether  
17 or not reduced to judgment, arising from any breach or alleged breach of this  
18 warranty.

19 24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants  
20 that Consultant has not employed or retained any entity or person to solicit or obtain this  
21 Agreement and that Consultant has not paid or agreed to pay any entity or person any fee,  
22 commission or other monies based on or from the award of this Agreement. If Consultant  
23 breaches this warranty, City shall have the right to terminate this Agreement immediately  
24 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments  
25 due under this Agreement or otherwise recover the full amount of the fee, commission or  
26 other monies.

27 25. WAIVER. The acceptance of any services or the payment of any  
28 money by City shall not operate as a waiver of any provision of this Agreement or of any

1 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
2 Agreement shall not constitute a waiver of any other or subsequent breach of this  
3 Agreement.

4 26. CONTINUATION. Termination or expiration of this Agreement shall  
5 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
6 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

7 27. TAX REPORTING. As required by federal and state law, City is  
8 obligated to and will report the payment of compensation to Consultant on Form 1099-  
9 Misc. Consultant shall be solely responsible for payment of all federal and state taxes  
10 resulting from payments under this Agreement. Consultant shall submit Consultant's  
11 Employer Identification Number (EIN), or Consultant's Social Security Number if  
12 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of  
13 Financial Management. Consultant acknowledges and agrees that City has no obligation  
14 to pay Consultant until Consultant provides one of these numbers.

15 28. ADVERTISING. Consultant shall not use the name of City, its officials  
16 or employees in any advertising or solicitation for business or as a reference, without the  
17 prior approval of the City Manager or designee.

18 29. AUDIT. City shall have the right at all reasonable times during the  
19 term of this Agreement and for a period of five (5) years after termination or expiration of  
20 this Agreement to examine, audit, inspect, review, extract information from and copy all  
21 books, records, accounts and other documents of Consultant relating to this Agreement.

22 30. THIRD PARTY BENEFICIARY. This Agreement is not intended or  
23 designed to or entered for the purpose of creating any benefit or right for any person or  
24 entity of any kind that is not a party to this Agreement.

25 ///

26 ///

27 ///

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OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 IN WITNESS WHEREOF, the parties have caused this document to be duly  
2 executed with all formalities required by law as of the date first stated above.

3 CONSOLIDATED DISPOSAL SERVICE,  
4 L.L.C., a Delaware limited liability company

5 OCTOBER 9, 2018

By [Signature]  
6 Name Rob Sherman  
7 Title General Manager

8 \_\_\_\_\_, 2018

By \_\_\_\_\_  
8 Name \_\_\_\_\_  
9 Title \_\_\_\_\_

10 Tom Modica  
11 Assistant City Manager

"Consultant"

12 EXECUTED PURSUANT  
13 TO SECTION 301 OF  
14 THE CITY CHARTER

CITY OF LONG BEACH, a municipal  
corporation

15 Oct 25, 2018

By [Signature]  
16 City Manager

"City"

17 This Agreement is approved as to form on Oct. 15, 2018.

18 CHARLES PARKIN, City Attorney

By [Signature]  
19 Deputy



# EXHIBIT “A”

## Scope of Work

## **SCOPE OF PROJECT**

Contractor shall weigh; receive; and furnish all necessary labor, tools, materials, appliances, equipment, and facilities for such weighing and receiving at Contractor's Transfer Station, in accordance with all applicable terms and conditions of the Agreement upon award of contract.

Contractor shall keep and maintain the transfer station site open and available for acceptance of solid waste from 6:00 AM to 5:00 PM during the days of Monday through Saturday, including all "Contractor Holidays" (Memorial Day, Fourth of July, Labor Day and Thanksgiving).

Additionally, the proposed Transfer Station may be used as an alternate disposal site for refuse normally sent to the Southeast Resource Recovery Facility (SERRF).

Adequate roadways and clearance within the transfer station site to the point of dumping operations shall be maintained at all times to allow trucks delivering solid waste to operate with ease and without delay. Contractor shall have sufficient personnel and equipment to ensure ability to accept thirty (30) trucks within a sixty (60)-minute period during hours of operation.

Solid waste to be delivered and deposited at the transfer station may include Residential Solid Waste, Commercial Solid Waste, Green Waste, Street Sweeping, and beach waste exclusive of heavy timbers.

The project shall be subject to the insurance requirements found in **Attachment H**. These requirements will supersede any other insurance requirements found in the RFP document.

The weight of each load of solid waste delivered to the transfer station for which payment is to be made shall be in compliance with certified scale provided by Contractor at the Transfer Station.

City will pay for solid waste deposited by trucks positively identified and authorized by the City, or owned and/or under the operation and control of the City, or specifically designated by the Director of Public Works or his designee.

# EXHIBIT “B”

## Rates or Charges



The City Of Long Beach  
RFP PW 18-098



Part 2 – Cost Proposal  
Consolidated Disposal Service L.L.C. dba Republic Services  
Disposal Rate Sheet

a) Commercial Waste (e.g., wood, paper, etc.)	\$52.80 per ton
b) Construction and Demolition (C&D) Waste / Bulky Waste	\$85.00 per ton
c) Green Waste (GW)	\$65.00 per ton
d) Green Waste (e.g., hard to handle tree trunks, stumps, etc.) *Hard to Handle fee of \$45 added to each load	\$65.00 per ton plus \$45.00 per truck load*
e) Green Waste (other tree debris)	\$65.00 per ton
f) Mixed Dirt (e.g., soil, tree roots, etc.)	\$85.00 per ton
g) Residential Waste or Municipal Solid Waste (MSW)	\$52.80 per ton to 9,500 tons* \$48.00 per ton above 9,500 tons*
*For the first 9,500 tons of Residential MSW waste annually, the rate is \$52.80. For all tonnage above 9,500 tons annually, the rate will be \$48.00 per ton. i.e. Tiered pricing is related to annual quantities delivered and will reset upon the anniversary date each year.	
h) Special Waste (e.g., weather wood waste) Non-Hazardous	\$85.00 per ton
i) Street Sweeping	\$52.80

All loads require a minimum of (1) ton charge

# EXHIBIT “C”

City’s Representative:

Diko Melkonian, Public Works

Environmental Services Bureau Manager

(562) 570-2856

# EXHIBIT “D”

Materials/Information Furnished: None

# EXHIBIT “E”

Consultant’s Key Employee:

Rob Sherman, General Manager