

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

AGREEMENT

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THIS AGREEMENT is made and entered, in duplicate, as of September 18, 2014, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on September 16, 2014, by and between CONSOLIDATED DISPOSAL SERVICE, L.L.C. DBA REPUBLIC SERVICES, a Delaware limited liability company ("Consultant"), with a place of business at 12949 Telegraph Road, Santa Fe Springs, California 90607, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with receiving, processing, transfer and disposal 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 Eight Hundred Forty Thousand Dollars (\$840,000) annually, at the rates or charges shown in Exhibit "B".

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B. The City's obligation to pay the sum stated above for any one fiscal year shall be contingent upon the City Council of the City appropriating the necessary funds for such payment by the City in each fiscal year during the term of this Agreement. For the purposes of this Section, a fiscal year commences on October 1 of the year and continues through September 30 of the following year. In the event that the City Council of the City fails to appropriate the necessary funds for any fiscal year, then, and in that event, the Agreement will terminate at no additional cost or obligation to the City.

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

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

E. Consultant represents that Consultant has obtained all necessary information on conditions and circumstances that may affect its

1 performance and has conducted site visits, if necessary.

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

5 2. TERM. The term of this Agreement shall commence at midnight on  
6 September 18, 2014, and shall terminate at 11:59 p.m. on September 17, 2016, unless  
7 sooner terminated as provided in this Agreement, or unless the services or the Project is  
8 completed sooner.

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  
15 the Project. City shall furnish to Consultant information or materials, if any,  
16 described in Exhibit "D", attached to this Agreement and incorporated by this  
17 reference, and 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, Ronald R. Krall. City shall have the right to approve any person  
21 proposed by Consultant to replace that key employee.

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

1 Consultant's compensation; (b) City will not secure workers' compensation or pay  
2 unemployment insurance to, for or on Consultant's behalf; and (c) City will not provide  
3 and Consultant is not entitled to any of the usual and customary rights, benefits or  
4 privileges of City employees. Consultant expressly warrants that neither Consultant nor  
5 any of Consultant's employees or agents shall represent themselves to be employees or  
6 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  
13 Section 1763 of the California Insurance Code and that have ratings of or  
14 equivalent to A:VIII by A.M. Best Company, the following insurance:

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

1 and commissions, and their officials, employees and agents.

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

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

9 (d) Commercial automobile liability insurance (equivalent in scope  
10 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an  
11 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  
18 coverage shall not be reduced, non-renewed or canceled except after thirty (30)  
19 days prior written notice to City, shall be primary and not contributing to any other  
20 insurance or self-insurance maintained by City, and shall be endorsed to state that  
21 coverage maintained by City shall be excess to and shall not contribute to  
22 insurance or self-insurance maintained by Consultant. Consultant shall notify City  
23 in writing within five (5) days after any insurance has been voided by the insurer or  
24 cancelled by the 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

1           uninterrupted, continuing coverage for a period of not less than three (3) years,  
2           commencing on 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  
8           City certificates of insurance and the endorsements for approval as to sufficiency  
9           and form. In addition, Consultant shall, within thirty (30) days prior to expiration of  
10          the insurance, furnish to City certificates of insurance and endorsements  
11          evidencing renewal of the insurance. City reserves the right to require complete  
12          certified copies of all policies of Consultant and Consultant's subconsultants and  
13          contractors, at any time. Consultant shall make available to City's Risk Manager  
14          or designee all books, records and other information relating to this insurance,  
15          during normal business 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  
18          more frequently than once a year, City's Risk Manager or designee may require  
19          that Consultant, Consultant's subconsultants and contractors change the amount,  
20          scope or types of coverages required in this Section if, in his or her sole opinion,  
21          the amount, scope or types of coverages are not adequate.

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

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

1 was and is the professional reputation and competence of Consultant and Consultant's  
2 employees. Consultant shall not assign its rights or delegate its duties under this  
3 Agreement, or any interest in this Agreement, or any portion of it, without the prior  
4 approval of City, except that Consultant may with the prior approval of the City Manager  
5 of City, assign any moneys due or to become due Consultant under this Agreement. Any  
6 attempted assignment or delegation shall be void, and any assignee or delegate shall  
7 acquire no right or interest by reason of an attempted assignment or delegation.  
8 Furthermore, Consultant shall not subcontract any portion of its performance without the  
9 prior approval of the City Manager or designee, or substitute an approved subconsultant  
10 or contractor without approval prior to the substitution. Nothing stated in this Section  
11 shall prevent Consultant from employing as many employees as Consultant deems  
12 necessary for performance of this Agreement.

13 7. CONFLICT OF INTEREST. Consultant, by executing this  
14 Agreement, certifies that, at the time Consultant executes this Agreement and for its  
15 duration, Consultant does not and will not perform services for any other client which  
16 would create a conflict, whether monetary or otherwise, as between the interests of City  
17 and the interests of that other client. And, Consultant shall obtain similar certifications  
18 from Consultant's employees, subconsultants and contractors.

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

23 9. OWNERSHIP OF DATA. All materials, information and data  
24 prepared, developed or assembled by Consultant or furnished to Consultant in  
25 connection with this Agreement, including but not limited to documents, estimates,  
26 calculations, studies, maps, graphs, charts, computer disks, computer source  
27 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,  
28 information, material and memorandum ("Data") shall be the exclusive property of City.

1 Data shall be given to City, and City shall have the unrestricted right to use and disclose  
2 the Data in any manner and for any purpose without payment of further compensation to  
3 Consultant. Copies of Data may be retained by Consultant but Consultant warrants that  
4 Data shall not be made available to any person or entity for use without the prior approval  
5 of City. This warranty shall survive termination of this Agreement for five (5) years.

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

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

25 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for  
26 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates  
27 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available  
28 without breach of this Agreement by Consultant; or (c) a third party who has a right to



1 disclose does so to Consultant without restrictions on further disclosure; or (d) must be  
2 disclosed pursuant to subpoena or court order.

3 13. ADDITIONAL COSTS AND REDESIGN.

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

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

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

22 15. LAW. This Agreement shall be construed in accordance with the  
23 laws of the State of California, and the venue for any legal actions brought by any party  
24 with respect to this Agreement shall be the County of Los Angeles, State of California for  
25 state actions and the Central District of California for any federal actions. Consultant  
26 shall cause all work performed in connection with construction of the Project to be  
27 performed in compliance with (1) all applicable laws, ordinances, rules and regulations of  
28 federal, state, county or municipal governments or agencies (including, without limitation,

1 all applicable federal and state labor standards, including the prevailing wage provisions  
2 of sections 1770 *et seq.* of the California Labor Code); and (2) all directions, rules and  
3 regulations of any fire marshal, health officer, building inspector, or other officer of every  
4 governmental agency now having or hereafter acquiring jurisdiction.

5 16. PREVAILING WAGES.

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

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

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

26 18. INDEMNITY.

27 A. Consultant shall indemnify, protect and hold harmless City, its  
28 Boards, Commissions, and their officials, employees and agents ("Indemnified

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

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

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

28 D. The provisions of this Section shall survive the expiration or

1 termination of this Agreement.

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

4 20. NONDISCRIMINATION.

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

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

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  
6 place of business available to employees and applicants for employment:

7 "During the performance of a contract with the City of Long Beach,  
8 the 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  
16 or to become due under the Agreement may be retained by the City. The City  
17 may 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  
22 its 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  
25 provisions of Long Beach Municipal Code Section 2.93 et seq., Contractor  
26 Responsibility.

27 22. NOTICES. Any notice or approval required by this Agreement shall  
28 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,

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

7           23.    COPYRIGHTS AND PATENT RIGHTS.

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

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

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

21           24.    COVENANT AGAINST CONTINGENT FEES. Consultant warrants

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

1           25.    WAIVER. The acceptance of any services or the payment of any  
2 money by City shall not operate as a waiver of any provision of this Agreement or of any  
3 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
4 Agreement shall not constitute a waiver of any other or subsequent breach of this  
5 Agreement.

6           26.    CONTINUATION. Termination or expiration of this Agreement shall  
7 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
8 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

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

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

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

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

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

CONSOLIDATED DISPOSAL SERVICE, L.L.C. DBA REPUBLIC SERVICES, a Delaware limited liability company

\_\_\_\_\_, 2014

By [Signature]  
Name RONALD R. KRAH  
Title VP

\_\_\_\_\_, 2014

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

"Consultant"

CITY OF LONG BEACH, a municipal corporation

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

Nov. 21, 2014

By [Signature]  
City Manager Assistant City Manager

"City"

This Agreement is approved as to form on 10/24, 2014.

CHARLES PARKIN, City Attorney

By [Signature]  
Deputy

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



# EXHIBIT “A”

## Scope of Work

## SCOPE OF WORK

Contractor shall weigh and receive, and shall 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.

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 Monday through Saturday and all Contractor Holidays (Memorial Day, Fourth of July, Labor Day and Thanksgiving).

Adequate roadways and clearance within the transfer station site to the point of dumping operations shall be maintained at all times so trucks delivering solid waste can 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.

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.

# EXHIBIT "B"

## Rates or Charges

## CONSOLIDATED DISPOSAL SERVICE

### Disposal Rate Sheet for volume up to 20,000 tons annually

Residential Waste or Municipal Solid Waste (MSW)	<u>\$42.00</u> /per ton
Street Sweeping Waste	<u>\$42.00</u> /per ton
Green Waste (GW)	<u>\$42.00</u> /per ton
Construction and Demo (C&D) Waste	<u>\$53.00</u> /per ton

### Disposal Rate Sheet for volume 20,001 to 45,000 tons annually

Residential Waste or Municipal Solid Waste (MSW)	<u>\$40.50</u> /per ton
Street Sweeping Waste	<u>\$40.50</u> /per ton
Green Waste (GW)	<u>\$40.50</u> /per ton
Construction and Demo (C&D) Waste	<u>\$53.00</u> /per ton

### Disposal Rate Sheet for volume over 45,000 tons annually

Residential Waste or Municipal Solid Waste (MSW)	<u>\$39.75</u> /per ton
Street Sweeping Waste	<u>\$39.75</u> /per ton
Green Waste (GW)	<u>\$39.75</u> /per ton
Construction and Demo (C&D) Waste	<u>\$53.00</u> /per ton

At the end of each year, Consolidated will perform a reconciliation of tons received and adjust rates according to the tiers above and submit to the City for review. All adjustments will be made within 30 days of year-end.

All loads require a minimum of (1) ton minimum charge.

# EXHIBIT “C”

City’s Representative:

James R. Kuhl, Manager

Environmental Services Bureau

# EXHIBIT “D”

Materials/Information Furnished: None

BOND FOR FAITHFUL PERFORMANCE

KNOW ALL MEN BY THESE PRESENTS: THOSE we,  
Consolidated Disposal Service, L.L.C. DBA Republic Services  
As PRINCIPAL, and Fidelity and Deposit Company of Maryland Located at \_\_\_\_\_  
1400 American Lane, Schaumburg, IL 60196, a corporation, incorporated under the laws of the  
State of Illinois. Admitted as a surety in the State of California and authorized to transact business in the State of California, as  
**SURETY**, are held and firmly bound unto the **CITY OF LONG BEACH, CALIFORNIA**, a municipal corporation, in the sum of  
Eight Hundred Forty Thousand and 00/100 DOLLARS  
(\$ 840,000.00), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind  
ourselves, our respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

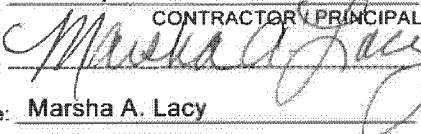
WHEREAS, said Principal has been awarded and is about to enter the annexed contract (incorporated herein by this reference)  
with said City of Long Beach for the  
Receiving, Processing, and Transfer and Disposal Services Proposal No. PW14-041. And  
is required by said City to give this bond in connection with the execution of said contract:

NOW, THEREFORE, if said Principal shall well and truly keep and faithfully perform all of the covenants, conditions, agreements  
and obligations of said contract on said Principal's part to be kept, done and performed, at all times and in the manner specified therein, then  
this obligation shall be null and void, otherwise it shall be and remain in full force and effect;


PROVIDED, that any modifications, alterations, or changes which may be made in said contract, or in the work to be done, or in  
the services to be rendered, or in any materials or articles to be furnished pursuant to said contract, or the giving by the City of any  
extension of time for the performance of said contract, or the giving of any other forbearance upon the part of either the City or the Principal  
to the other, shall not in any way release the Principal or the Surety, or either of them, or their respective heirs, administrators, executors,  
successors or assigns, from any liability arising hereunder, and notice to the Surety of any such modifications, alterations, changes,  
extensions or forbearances is hereby waived. No premature payment by said City to said Principal shall release or exonerate the Surety  
unless the officer of said City ordering the payment shall have actual notice at the time the order is made that such payment is in fact  
premature, and the only to the extent that such payment shall result in actual loss to the Surety, but in no event in an amount more than the  
amount of such premature payment.


IN WITNESS WHEREOF, the above named Principal and Surety have executed, or caused to be executed, this instrument with  
all of the formalities required by law on this 15th day of October, 20 14.

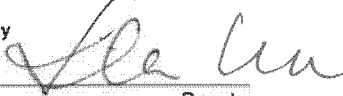
Consolidated Disposal Service, L.L.C.  
DBA Republic Services


CONTRACTOR / PRINCIPAL  
By:   
Name: Marsha A. Lacy  
Title: Assistant Treasurer

Fidelity and Deposit Company of Maryland  
SURETY

By:   
Name: Johanne S. Puckett  
Title: Attorney-in-Fact  
Telephone: 864-527-4687

By:   
Name: Eileen B. Schuler  
Title: Secretary

Approved as to form this 24th day of October, 20 14  
Charles Parkin, City Attorney  
By:   
Deputy

approved as to sufficiency this 11 day of 21, 20 14  
EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.  
By:   
City Manager / ~~City Engineer~~  
**Assistant City Manager**

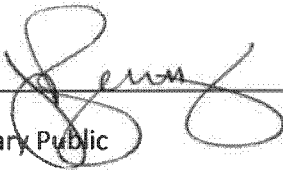
- Note: 1. Both PRINCIPAL AND SURETY before a Notary Public and a Notary's certificate must acknowledge execution of this bond  
Certificate of Acknowledgment must be attached.  
2. A corporation must execute the bond by 2 authorized officers and, if executed by a person not listed in Sec. 313, Calif. Corporate  
Code, then a certified copy of a resolution of its Board of Directors authorizing execution must be attached.

**CORPORATE ACKNOWLEDGEMENT**

State of ARIZONA

County of MARICOPA

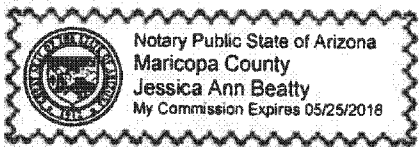
On this 15th day of October, before me personally came Eileen B. Schuler, to me known, and known to me to be the Secretary of Consolidated Disposal Service, LLC dba Republic Services and who executed the forgoing instrument, and she thereupon duly acknowledged to me that she executed the same as her free and voluntary act.



Notary Public

0/25/2018

Expiration Date



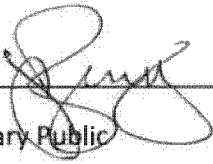


**CORPORATE ACKNOWLEDGEMENT**

State of ARIZONA

County of MARICOPA

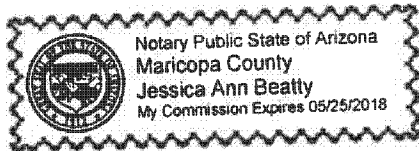
On this 15th day of October, before me personally came Marsha A. Lacy, to me known, and known to me to be the Assistant Secretary of Consolidated Disposal Service, LLC dba Republic Services and who executed the forgoing instrument, and she thereupon duly acknowledged to me that she executed the same as her free and voluntary act.



Notary Public

5/25/2018

Expiration Date



## ACKNOWLEDGMENT OF SURETY

State of South Carolina

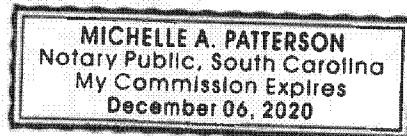
County of Greenville

On this 15th day of October, 2014, before me personally appeared Johanne S. Puckett, to me known, who being by me duly sworn, did depose and say that she is the Attorney-in-Fact of Fidelity and Deposit Company of Maryland the corporation described in and which executed the foregoing instrument; that she knows the corporate seal of said corporation; that the seal affixed to the within instrument is such corporate seal, and that she signed the said instrument and affixed the said seal as Attorney-In-Fact as evidenced by the attached Power of Attorney.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by OFFICAL SEAL the day and year written above.



Notary Public



**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by **JAMES M. CARROLL, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Jacqueline HAMPTON, Michelle PATTERSON and Johanne S. PUCKETT, all of Greenville, South Carolina, EACH** its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 8th day of November, A.D. 2012.

**ATTEST:**

**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



By: Eric D. Barnes  
*Eric D. Barnes*  
Assistant Secretary  
Eric D. Barnes

James M. Carroll  
*James M. Carroll*  
Vice President  
James M. Carroll

State of Maryland  
City of Baltimore

On this 8th day of November, A.D. 2012, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **JAMES M. CARROLL, Vice President, and ERIC D. BARNES, Assistant Secretary**, of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Maria D. Adamski  
*Maria D. Adamski*  
Maria D. Adamski, Notary Public  
My Commission Expires: July 8, 2015



**EXTRACT FROM BY-LAWS OF THE COMPANIES**

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

**CERTIFICATE**

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 15<sup>th</sup> day of October, 20 14.



*Thomas O. McClellan*

Thomas O. McClellan, Vice President