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The Cover Sheet was prepared,  
under direction, by:  
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Chicago, IL 60606  
(2881-062 EMH)



Doc#: 1233329082 Fee: \$80.00  
Eugene "Gene" Moore  
Cook County Recorder of Deeds  
Date: 11/28/2012 11:54 AM Pg: 1 of 22

[Above space for Recorder's Office]

## COOK COUNTY, ILLINOIS RECORDING COVER SHEET

### FOR

RESOLUTION NO. 29-12 ENTITLED "A RESOLUTION AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT BY AND BETWEEN THE VILLAGE OF MOUNT PROSPECT AND ARC DISPOSAL INC., 2101 SOUTH BUSSE ROAD, MOUNT PROSPECT, ILLINOIS"

ADDRESS: 1921, 2069, 2101, 2105 AND 3125 SOUTH BUSSE ROAD, MOUNT PROSPECT, IL

PINS: 08-23-300-006-0000, 08-23-300-007-0000,  
08-23-101-020-0000, 08-23-101-055-0000, 08-23-101-062-0000

**After recording return to:  
RECORDER'S BOX 324**



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## RESOLUTION NO. 29-12

### A RESOLUTION AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT BY AND BETWEEN THE VILLAGE OF MOUNT PROSPECT AND ARC DISPOSAL, INC. 2101 SOUTH BUSSE ROAD, MOUNT PROSPECT, ILLINOIS

**WHEREAS**, ARC DISPOSAL COMPANY, INC., an Illinois corporation (hereinafter the "Owner"), is the owner of the real estate described in *Exhibit A* of the Annexation Agreement referred to below (hereinafter the "Property"); and

**WHEREAS**, Owner desires to enter into an Annexation Agreement (hereinafter the "Annexation Agreement") concerning the Property, and is ready, willing and able to enter into said Agreement and to perform the obligations as required thereunder; and

**WHEREAS**, a true and correct copy of such Annexation Agreement is attached hereto and made a part hereof as *Exhibit A*; and

**WHEREAS**, the Corporate Authorities of the Village of Mount Prospect, Cook County, Illinois, did hold a public hearing on June 19, 2012 to consider the Annexation Agreement for the annexation of the Property, which is not presently within the corporate limits of any municipality but is contiguous to the Village of Mount Prospect, and

**WHEREAS**, the statutory procedures provided in Chapter 65 ILCS 5/11-15.1-1 through 5/11-15.1-15, as amended, for the execution of said Annexation Agreement have been complied with; the public hearing on said Agreement having been held pursuant to proper notice; and

**WHEREAS**, the Corporate Authorities of the Village of Mount Prospect, Cook County, Illinois, have determined that it is in the best interests of the Village of Mount Prospect that said Annexation Agreement be entered into by the Village of Mount Prospect.

**NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MOUNT PROSPECT, COOK COUNTY, ILLINOIS, ACTING IN THE EXERCISE OF THEIR HOME RULE POWERS:**

**SECTION 1:** The Preambles hereto are hereby made a part of, and operative provisions of, this Ordinance as fully as if completely repeated at length herein.

**SECTION 2:** The Corporate Authorities of the Village of Mount Prospect hereby find that it is in the best interests of the Village of Mount Prospect and its residents that the aforesaid "Annexation Agreement" be entered into and executed by said Village of Mount Prospect, with said Agreement to be substantially in the form attached hereto as Exhibit A.

**SECTION 3:** The President, for and on behalf of the Village of Mount Prospect, is hereby authorized within her discretion to execute the Annexation Agreement.

**SECTION 4:** The President and Village Clerk, for and on behalf of the Village, are hereby authorized to execute any documents and to perform any acts necessary to effect the fulfillment of all the terms and conditions of the Annexation Agreement.

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**SECTION 5:** This Resolution shall be effective immediately from and after its passage by two-thirds of the Corporate Authorities and approval.

**PASSED** and **APPROVED** this 5<sup>th</sup> day of June, 2012, by two-thirds of the Corporate Authorities on a roll call vote as follows:

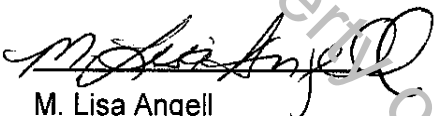
AYES: Hoefert, Juracek, Korn, Matuszak, Polit, Zadel

NAYS: None

ABSENT: None

ATTEST:

  
Irvana K. Wilks  
Mayor

  
M. Lisa Angell  
Village Clerk

H:\CLKO\files\WIN\ORDINANCE - resolution Annexation Agreement June 19 2012.DOC

Property of Cook County Clerk's Office

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## ANNEXATION AGREEMENT

**THIS ANNEXATION AGREEMENT** (this "Agreement") is made and entered into this 19<sup>th</sup> day of June, 2012, by and between the **VILLAGE OF MOUNT PROSPECT**, Cook County, Illinois, an Illinois home rule municipal corporation ("**Village**"), and **ARC DISPOSAL COMPANY, INC., E & P INVESTMENT CORPORATION**, Illinois corporations ("**Owner**"; Village and Owner are sometimes collectively referred to herein as the "**Parties**" and individually, as a "**Party**").

### WITNESSETH:

**WHEREAS**, the Owner is the owner of the property which is the subject of this Agreement and which is legally described on attached Exhibit A ("**Subject Property**"); and

**WHEREAS**, the Subject Property consists of approximately 14.1 acres and has street addresses on South Busse Road of 1921, 2069, 2101, 2105, and 3125; and

**WHEREAS**, Owner currently operates multiple waste hauling and office uses on the Subject Property, including, through affiliated companies Allied Waste, Inc. and Republic Services, Inc. ("**Operator**") without limitation, in connection, with waste hauling, collection, transfer, recycling, truck maintenance, parking and container storage and similar activities (the "**Existing Facility**") as shown on Exhibit B, and

**WHEREAS**, the annexation of the Subject Property and adjacent unincorporated public rights of way (collectively, the "**Annexation Property**") will promote the sound planning and development of the Village as a balanced community and will be beneficial to the Village; and

**WHEREAS**, the Owner desires to have the Annexation Property annexed to the Village, the Village desires to annex the same, and the Owner and Village desire to obtain assurances from each other as to certain matters covered by this Agreement for a period of twenty (20) years from and after the execution of this Agreement; and

**WHEREAS**, the Annexation Property is in unincorporated Cook County but is adjacent and contiguous to the existing boundaries of the Village; and

**WHEREAS**, after due notice as required by law, public hearings on this Annexation Agreement ("**Agreement**"), rezoning of the Subject Property to the I-3 Solid Waste Handling District have been held by the Planning and Zoning Commission of the Village; which District as set out in paragraph 3 hereafter, shall be added to the Zoning Ordinance; and

**WHEREAS**, the parties wish to enter into a binding agreement with respect to the annexation of the Annexation Property and for other related matters pursuant to the provisions of Division 15.1 of Article 11 of Chapter 65 of the Illinois Compiled Statutes, upon the terms and conditions contained in this Agreement; and

**WHEREAS**, all public hearings and other actions required to be held or taken prior to the adoption and execution of this Agreement, in order to make the same effective, have been held or taken, including all hearings and actions required in connection with the zoning of the

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Annexation Property, such public hearings and other actions having been held pursuant to public notice as required by law and in accordance with all requirements of law prior to the adoption and execution of this Agreement; and

**WHEREAS**, the sole Owner of record of the Subject Property has signed the petition for annexation of the Subject Property to the Village and there are no electors residing on the Annexation Property; and

**WHEREAS**, the Corporate Authorities of the Village and the Owner deem it to be to the mutual advantage of the parties and in the public interest that the Annexation Property be annexed to the Village and the Existing Facility, be allowed to operate on the Subject Property.

**NOW, THEREFORE**, in consideration of the premises and the mutual promises herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Recitals and Introduction.** The Parties confirm and admit the truth and validity of the representations and recitations set forth in the foregoing recitals. The Parties further acknowledge that the same are material to this Agreement and along with all exhibits to this Agreement are hereby incorporated into this Agreement as though they were fully set forth in this Article I.

2. **Annexation.** Subject to the provisions of Article VII of Chapter 65 of the Illinois Compiled Statutes, the parties agree to do all things necessary or appropriate to cause the Annexation Property to be duly and validly annexed to the Village within thirty (30) days of the adoption, approval and execution of this Agreement. The parties shall cause such annexation to be effective pursuant to the provisions of Section 7-1-8 of Chapter 65 of the Illinois Compiled Statutes. The Village shall prepare all documents and ordinances necessary to accomplish this annexation, and cause same to be recorded as required by law.

3. **Zoning.** Prior to annexation of the Annexation Property to the Village as set forth above, the Corporate Authorities shall take action necessary, including requiring the Zoning and Planning Commission and/or Corporate Authorities to hold any required public hearings to create a new I-3 Solid Waste Handling District to the Mount Prospect Zoning Ordinance which would allow as a permitted use the Owners current use of the Annexation Property at the time of annexation of the Annexation Property to the Village as set forth above, the Corporate Authorities shall zone the Annexation Property into the I-3 Industrial District, which District shall allow the following:

- (1) full operations of the existing facility on the Subject Property and any expansion thereof as provided herein, 24 hours a day, 7 days a week, 365 days a year;
- (2) operation of Kenneth Drive as a private road as currently configured and constructed;
- (3) existing and future buildings at an approximate height not to exceed fifty feet (50'), being the approximate height of the tallest building located on the Subject Property as of the date of this Agreement;

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(4) outdoor operations and storage not within an enclosed structure so long as located a minimum of 60 feet from Busse Road;

(5) parking at the existing ratios for the existing facilities on the Subject Property with any non-office expansion of the existing facility at a ratio of one parking space per 1,500 net square feet of building space absent approval of a variation;

(6) outdoor storage on unimproved or unpaved surfaces;

(7) lot coverage ratio for existing improvements and the repair, replacement and modification of existing improvements equal to 100% of lot area;

(8) new improvements, including without limitation expansion of existing adjacent buildings, from and after the date of this Agreement on the currently undeveloped parcel identified as "Parcel A" on Exhibit B (the "Site Plan") shall be in compliance with the Village's Municipal Code, except as modified by the terms of this Agreement, except that Parcel A shall not be required to be subdivided, there will be no lot, yard, building or other setbacks required between Parcel A and any other portion of the Subject Property and requirements for lot coverage and stormwater management, shall only be calculated based on Parcel A and shall not be required to take into account lot coverage, stormwater, subdivision, building code or other requirements related to improvements on the remainder of the Subject Property; and

(9) Operator has purchased Cook County vehicle stickers which are valid through June 30, 2013. Village will allow Operator to use these stickers through that date and will issue vehicle stickers at a prorated cost for the remainder of 2013.

(10) the Village shall treat all buildings or improvements as shown on Exhibit B as grandfathered pre-existing legal non-conformities and will allow them to be maintained, repaired, replaced and operated in their current condition without modification including, without limitation, exemption from requirements to install new sprinkler systems.

(11) Owner agrees to take action to make the installations and maintain the Subject Property as set out in Exhibit C.

(12) Use of Compressed Natural Gas ("CNG"), which the Village acknowledges is a "green" initiative by Operator, to fuel Operator's trucks and installation of the infrastructure necessary to accomplish in accordance with applicable law.

4. **Plat of Annexation.** The Village will review and approve the Plat of Annexation prepared by Owner and shall record a correct Plat of Annexation upon annexation of the Subject Property as provided herein.

5. **Kenneth Drive.** Within ninety (90) days of annexation of the Annexation Property, the Village shall take all actions necessary to vacate Kenneth Drive and to cause the former Kenneth Drive right-of-way to be lawfully conveyed to Owner. As part of such vacation,



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Village will reserve utility easements for any pre-existing public utilities located in Kenneth Drive. Owner agrees to execute an easement, in form reasonably acceptable to Owner, allowing access to all parcels who are currently adjacent and have driveway access to the Kenneth Drive right-of-way to the private roadway located in the former Kenneth Drive right-of-way subject to on-going payment by the owners of such parcels of a pro rata share of the cost of maintenance, repair and replacement of such roadway. The Village agrees to vacate Kenneth Drive at no cost to Owner.

6. **Contributions.** Village represents and warrants that there are no general obligation bonds of the Elk Grove Fire Protection District (the “**District**”) or other liabilities of the Subject Property pursuant to 70 ILCS 705/20 except as provided in this section. In reliance upon the foregoing, Owner agrees to reimburse the Village for payments the Village is required to make to the District pursuant to 70 ILCS 705/20 in the currently applicable amount but not to exceed on an annual basis the following amounts (the “**Annual Payments**”) in their respective years after the year of annexation:

- A. In 2013 - \$56,052.00; and
- B. In 2014 - \$44,841.60; and
- C. In 2015 - \$31,631.20; and
- D. In 2016 - \$22,470.30; and
- E. In 2017 - \$11,210.40.

Subject to payment of the Annual Payments, Owner will have no further liability under this Section or pursuant to 70 ILCS 705/20.

7. **Subsequent Owners.** Any subsequent purchasers, including subsequent purchasers of any lots, of all or a portion of the Subject Property by purchasing all or any part of the Subject Property shall by such purchase automatically acknowledge agreement with all of the provisions of this Agreement, and shall be deemed to have done so without any other confirming documentation.

8. **Disconnection.** The Owner and its respective successors and assigns, including all subsequent purchasers of the individual lots, all agree that, except as otherwise provided herein, after annexation of the Subject Property and during the term of this Agreement, subject to Village’s compliance with the terms of this Agreement, they will not seek to disconnect any portion or all of the Subject Property from the Village, and that they will oppose any disconnection proceeding that may be filed.

9. **Warranties and Representations.** The Owner represents and warrants to the Village as follows:

- A. That the legal title holder and the Owner of record of the Subject Property are as set forth on the first page of this Agreement.
- B. That other than the Owner, no other entity or person has a fee simple or mortgage interest in the Subject Property.



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C. That Owner has provided the legal description of the Subject Property set forth in this Agreement and that the legal description is accurate and correct.

10. **Village Codes, Ordinances, Rules and Regulations.** All codes, ordinances, rules and regulations of the Village relating to permits, building, construction, development, subdivision controls, zoning and flood plains in effect as of the date hereof, except to the extent they are inconsistent with or amended pursuant to the terms and provisions of this Agreement or county, state or federal requirements, and all amendments to the Village codes, ordinances, rules and regulations relating to said matters adopted by the Village pursuant to the terms of this Agreement, shall continue in effect, insofar as they relate to the development of the Subject Property, until the date that is twenty years after the date of this Agreement ("Designated Date"). All codes, ordinances, rules and regulations of the Village relating to building construction and maintenance which affect development of the Subject Property (other than those codes, ordinances, rules and regulations relating to the payment of fees to the Village which shall be governed by the provisions of Section 11) in effect as of the date of this Agreement shall continue in effect until the Designated Date, except to the extent that said codes, ordinances, rules and regulations are amended on a general basis so as to be applicable to all property situated within the Village (so long as such amendment does not effectively only apply to facilities such as the improvements now or hereafter located on the Subject Property) or to otherwise conform them to the requirements of county, state or federal law or changes in nationally recognized building and safety codes formally adopted by the Village for all properties in the Village. Except as may be specifically provided herein, the terms and provisions of this Agreement shall supersede the provisions of Village codes, ordinances, rules and regulations (whether in effect on the date of this Agreement or subsequently adopted by the Village) which may be in conflict with or more restrictive than said terms and provisions.

11. **Fees.**

A. Village agrees that except as specifically provided in this Agreement no other application, review, filing or other fees are required to be paid to the Village in connection with or attributable to the annexation, rezoning, text amendment and other reviews and approvals provided for pursuant to this Agreement, except ordinary and customary Village fees, subject to the provisions of this Agreement, in connection with further development of the Subject Property from and after the date of this Agreement.

B. The Village warrants and represents that no recapture fees, impact fees or other similar payments are due and payable by Owner or any Developer to any person or entity as a result of connection to any Village utility, roadway or other improvements serving Village roadway or other Village improvements serving the Subject Property.

C. The Village warrants and represents that no special service area fees, taxes or other similar payments are due and payable by Owner to any person or entity as a result of connection to any Village utility, Village roadway or other Village improvement serving the Subject Property.

D. Village shall not require any host, siting, transfer or similar fee in connection with the operation of the Existing Facility or any expansion thereof or as a

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condition to support for approval of any governmental approval in connection with such operation. Except if the Owner expands the existing transfer station such that local siting approval is necessary. In this case, the Village may impose a host fee by Village Ordinance, but only to the extent that the fee is based upon the incremental increase in tonnage processed by that transfer station as may be allowed by the new or revised IEPA permit.

12. **Severability.** If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Agreement. If for any reason the annexation or zoning of all or any portion of the Subject Property is ruled invalid, in whole or in part, the Village, as soon thereafter as possible, shall take such actions (including holding public hearings and adopting ordinances and resolutions) as may be necessary to effect the spirit and intent of this Agreement and the objectives of the Parties, as set forth in and evidenced by this Agreement.

13. **Grandfathering of Pre-Existing Conditions.** Notwithstanding any other provision of the Village Municipal Code or any other rule, requirement, ordinance or other applicable governmental law to the contrary, the Village shall treat all buildings or improvements as grandfathered pre-existing legal non-conformities and will allow them to be maintained, repaired, replaced and operated in their current condition without modification (including, without limitation, exemption from requirements to install new sprinkler systems). Improvements to be installed pursuant to Owner's regular maintenance scheduling shall comply with the Village rules and regulations with regard thereto. The Village hereby agrees to take all actions necessary to enable it to fully comply with the provisions of this section and the rights granted to Owner hereunder, including without limitation approval of any necessary ordinances or resolutions, which rights are a material inducement to Owner's agreement to enter into this Agreement and to annex the Annexation Property to the Village.

14. **Mutual Assistance.**

A. **General.** The Parties shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out the terms and objectives intentions of the Parties as reflected by or otherwise set forth in this Agreement, including, without limitation, the giving of such notices, the holding or adoption of such resolutions and ordinances, and the taking of such other actions as may be necessary to enable the Parties to comply with and implement the terms and provisions hereof and as may be necessary to give effect to the terms and objectives hereof and the intentions of the Parties as reflected hereby.

B. **Other Governmental Entities.** The Parties shall cooperate fully with each other in seeking, without limitation, Federal, State, Illinois Toll Highway Authority, Illinois Department of Transportation, IEPA, Illinois Department of Natural Resources, U.S. Army Corps of Engineers, MWRD and Cook County Forest Preserve District financial and other aid, assistance, review or approval required or useful for the construction, improvement or operation, to the extent contemplated by or consistent with

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the terms of this Agreement, of property and facilities in, on and near the Subject Property.

15. **Preservation of Rights.** The Parties agree to take no action nor to do anything to void, cancel or otherwise destroy any such rights and obligations in and as to the Subject Property that are inconsistent with the objectives of this Agreement or that are not the subject of this Agreement or treated or addressed herein, either expressly or by implication.

16. **Termination.**

A. Notwithstanding any other provision hereof, this Agreement may be terminated and cancelled by the Parties in accordance with the following:

(1) by the mutual written agreement of Village and Owner; or

(2) by Owner if Village has not taken all actions necessary to grant all of the approvals identified in Sections 2, 3, 4, and 5 of this Agreement, including without limitation, enacting and adopting all necessary ordinances and resolutions in connection therewith, within ninety (90) days after this Agreement, is approved and executed by the Parties; or

(3) by Village or Owner if all or any of the Approvals and the other events and transactions contemplated hereby, would violate any nonappealable final order, decree or judgment of any court or governmental body having competent jurisdiction.

B. If this Agreement is terminated by either or both Parties as provided herein, then, upon the written request of Owner, Village shall take all actions necessary to disconnect the Subject Property from Village within sixty (60) days following such written request thereof. Such termination shall be without liability of either Party to the other.

17. **General Provisions.**

A. **Notices.** Notice or other writings which any party is required to, or may wish to, serve upon any other party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

(1) If to the Village or Corporate Authorities:	Village President VILLAGE OF MOUNT PROSPECT 50 S. Emerson Street Mount Prospect, Illinois 60056
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with a copy to:	(a) Village Manager VILLAGE OF MOUNT PROSPECT 50 S. Emerson Street Mount Prospect, Illinois 60056
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(b) Everette M. Hill, Jr.  
KLEIN, THORPE AND JENKINS, LTD.  
20 North Wacker Drive, Suite 1660  
Chicago, Illinois 60606 2903

(2) If to the Owner: REPUBLIC SERVICES, INC.  
Attention: General Counsel  
18500 N. Allied Way  
Phoenix, AZ 85054

and

ARC DISPOSAL COMPANY, INC.  
Attention: General Manager  
2101 S. Busse Road  
Mount Prospect, Illinois 60126

with a copy to: Kenneth T. Kubiesa  
KUBIESA LAW FIRM, P.C.  
340 Butterfield Road, Suite 4B  
Elmhurst, IL 60126

or to such other address as any party may from time to time designate in a written notice to the other parties.

**B. Continuity of Obligations.**

(1) The provisions of this Agreement shall inure to the benefit of and shall be binding upon the Owner and its respective successors and assigns, including subsequent purchasers of the individual lots, in any manner in title and shall be binding upon the Village and the successor Corporate Authorities of the Village and any successor municipality. Upon conveyance of all or any portion of the Subject Property, the obligations of Owner with respect to such property and any improvements, infrastructure, costs, fees or liabilities with respect thereto shall automatically and without further action of any Party, be transferred to the entity or person acquiring such portion of the Subject Property and the prior owner of such portions shall automatically and without further action be released of its obligations with respect thereto.

(2) All terms and conditions of this Agreement shall constitute covenants running with the land, and shall bind each subsequent record owner of any portion or all (including the individual lots) of the Subject Property.

**C. Court Contest.** In the event that the annexation of the Subject Property, the classification of the Subject Property for zoning purposes, or other terms of this Agreement are challenged in any court proceeding by a third party, the period of time

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during which such litigation is pending, including (without limitation) the appeal time therefore, shall not be included, if allowed by law, in calculating the twenty (20) year period mentioned in subparagraph R below.

D. **Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH LAWS OF THE STATE OF ILLINOIS, WITHOUT REGARD TO ITS CHOICE OF LAWS PRINCIPLES.

E. **Remedies.** The Village, the Owner and their successors and assigns, covenant and agree that in the event of default of any of the terms, provisions or conditions of this Agreement by any of the parties, or their successors or assigns, which default exists uncorrected for a period of ten (10) days after written notice to any party to such default, the party seeking to enforce said provision shall have the right of specific performance and if said party prevails in a court of law, it shall be entitled to specific performance. It is further expressly agreed by and between the parties hereto that the remedy of specific performance herein given shall not be exclusive of any other remedy afforded by law to the parties, or their successor or successors in title.

F. **Survival of Representations.** The parties agree that the representations, warranties and recitals set forth in the preambles to this Agreement are material to this Agreement and the parties hereby confirm and admit their truth and validity and hereby incorporate such representations, warranties and recitals into this Agreement and the same shall continue during the period of this Agreement.

G. **Exercise of Options.** The Village, upon approval of this Agreement, exercises the two (2) one (1) year options to extend their Commercial Services Contract dated September 25, 2008, and of the Residential Services Contract dated January 1, 2006.

H. **Captions, Sections and Paragraph Headings.** The captions, sections and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be used in construing it.

I. **Reimbursement for Legal and Other Fees and Expenses.** Neither Party shall be required to reimburse the other Party for expenses incurred in the preparation and review of this Agreement, and any ordinances, letters of credit, plats, easements or other documents relating to the Subject Property, including, without limitation, the following:

- (a) the costs incurred by either Party for engineering services;  
and
- (b) attorneys' fees incurred by either Party in connection with this Agreement and the annexation and zoning of the Subject Property;  
and
- (c) miscellaneous expenses, such as legal publication costs, recording fees and copying expenses.



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In the event either Party institutes legal proceedings against the other Party for violation of this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment against such other Party all expenses of such legal proceedings incurred by the prevailing party in such legal proceeding, including but not limited to the court costs and attorneys' fees, witnesses' fees, etc., incurred by the prevailing Party in connection therewith (and any appeal thereof). The Party who does not prevail in such legal proceedings may, in such Party's sole discretion, appeal any such judgment rendered in favor of the prevailing Party.

J. **No Waiver or Relinquishment of Right to Enforce Agreement.** Failure of either Party to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon the other party imposed, shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

K. **Village Approval or Direction.** Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided herein or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with the express provisions of this Agreement.

L. **Recording.** This Agreement, or a memoranda thereof, and any subsequent amendments thereto or memoranda thereof shall be recorded by the Village in the office of the Recorder of Deeds in Cook County, Illinois at the expense of the Owner.

M. **Amendment.** This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between the parties relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them.

N. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which taken together, shall constitute one and the same instrument.

O. **Conflict Between the Text and Exhibits.** In the event of a conflict in the provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.

P. **Definition of Village.** When the term Village is used herein it shall be construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.

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Q. **Execution of Agreement.** This Agreement shall be signed last by the Village and the President of the Village shall affix the date on which the President signs this Agreement on Page hereof, which date shall be the effective date of this Agreement.

R. **Term of Agreement.** This Agreement shall be in full force and effect for a term of twenty (20) years from and after the date of execution of this Agreement.

S. **Automatic Expiration of Agreement.** This Agreement shall automatically be void and otherwise invalid if it is not signed by all necessary parties within one hundred and eighty (180) days of the effective date of the Ordinance authorizing the President and Clerk of the Village of Mount Prospect to sign this Agreement on behalf of said Village.

T. **No Personal Liability.** The Parties acknowledge and agree that (i) in no event shall any individual, partner, member, shareholder, owner, officer, director, employee, affiliate, beneficiary, or elected or appointed public official of any Party or any Developer, including individuals who are members of the group constituting the corporate authorities of Village and entering into the Agreement in their corporate capacities as members of such group, or its affiliates, be personally liable to another Party for any judgments for monetary damages, payments, obligations or performance due under this Agreement, or any breach or failure of performance of either Party hereunder and (ii) that the sole recourse for payment or performance of the obligations hereunder shall be against the Parties themselves and each of their respective assets and not against any other person, except for such liability as may be expressly assumed by an assignee pursuant to an assignment of, or pursuant to, this Agreement in accordance with the terms hereof.



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IN WITNESS WHEREOF, the parties hereto have set their hands and seals to this Agreement on the day and year first above written.

**VILLAGE OF MOUNT PROSPECT,**  
an Illinois municipal home rule  
corporation

**Owner;**

**ARC DISPOSAL COMPANY, INC.,** an  
Illinois Corporation

By: *[Signature]*  
Name: *Joyana K. Wilks*  
Title: Village President

By: *[Signature]*  
Name: *W. T. Eggleston, Jr.*  
Title: *Vice President & Asst Secretary*

**E & P INVESMENT CORPORATION,** an  
Illinois Corporation

By: *[Signature]*  
Name: *W. T. Eggleston, Jr.*  
Title: *Vice President & Asst. Secretary*

**ATTEST:**

By: *[Signature]*  
Name: *M. Lisa Angell*  
Title: Village Clerk

Property of Cook County Clerk's Office

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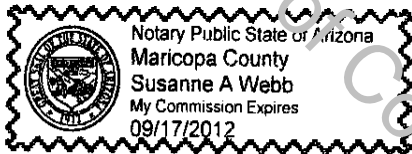
## ACKNOWLEDGMENTS

STATE OF ARIZONA )  
 ) SS  
COUNTY OF MARICOPA )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that W.T. Eggleston, Jr., personally known to me and the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act on behalf of ARC Disposal Company, Inc. for the uses and purposes therein set forth.

and E+P Investment Corporation and

GIVEN under my hand and official seal, this 25<sup>th</sup> day of , 2012.



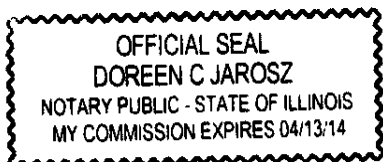
Susanne A. Webb  
Notary Public

## ACKNOWLEDGMENTS

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Iruana Wilks, personally known to me to be the Mayor of the Village of Mount Prospect, and Lisa Angell, personally known to me to be the Village Clerk of said municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and that they appeared before me this day in person and severally acknowledged that as such Mayor and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Board of Trustees of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 20 <sup>June</sup> day of , 2012.



Doreen C. Jarosz  
Notary Public

# UNOFFICIAL COPY

## EXHIBIT A

### LEGAL DESCRIPTION

#### **Parcel 1**

P.I.N. 08-23-300-006-0000

The North 3 acres of that part of the Southwest 1/4 of Section 23, Township 41 North, Range 11, East of the Third Principal Meridian, described as follows: Commencing at the Northwest corner of said Southwest 1/4 of Section 23; thence South 12.50 chains, thence East 30 chains to the East line of the West 1/2 of the Southwest 1/4 of Section 23, thence North 12.50 chains to the North Line of quarter section; thence West to the place beginning (except Busse Road), in Cook County, Illinois.

#### **Parcel 2**

08-23-300-007-0000

The South 4 acres of the North 7 acres of that part of the southwest 1/4 of Section 23, Township 41 North, Range 11, East of the Third Principal Meridian, bounded by the following described line; commencing at the Northwest corner of said Southwest 1/4 of Section 23; thence South 12.50 chains, thence East 20 chains to the East line of the West 1/2 of the Southwest 1/4 of Section 23, thence North 12.50 chains to the North line of said quarter section; thence West to the place of beginning (except Busse Road), in Cook County, Illinois.

#### **Parcel 3**

P.I.N. 08-23-101-055-0000

The West 1134.83 feet, as measured on the North and South lines thereof, of the South 164.68 feet, as measured on the East and West lines thereof, of the West 1/2 of the Northwest 1/4 of Section 23, Township 41 North, Range 11, East of the Third Principal Meridian, excepting therefrom all that part thereof heretofore used, taken or dedicated for Public Roads and Streets, in Cook County, Illinois.

#### **Parcel 4**

P.I.N. 08-23-101-062- 0000

The West 662.08 feet (except the east 90 feet thereof) of the North 10 acres of the South 15 acres of the West 1/2 of the Northwest 1/4 of Section 23, Township 41 North, Range 11 East of the Third Principal Meridian (except that part thereof dedicated for Kenneth Drive per document recorded September 5, 1969 as document 10950179 and except that part falling in Busse Road) in Cook County, Illinois.

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**Parcel 5**

P.I.N. 08-23-101-020-0000

Those parts of the North 164.73 feet of the South 650.85 feet (except the North 102.92 feet of the West 261.85 feet of the East 734.96 feet thereof) of the West half of the Northwest quarter of Section 23, and the North 45.91 feet of the South 704.74 feet (except the East 734.96 feet thereof) of the West ½ of the Northwest quarter of Section 23, all in Township 41 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois, described as follows: Commencing at a point on the West line of said Section 23, 540.39 feet North of the South line of the Northwest quarter of said Section 23, aforesaid, for a point beginning; thence East parallel with the South line of said Northwest quarter of distance of 250.0 feet; thence North parallel with the West line of said Section 23 a distance of 125.0 feet; thence West parallel with the said South line of said Northwest Quarter of said Section 23 a distance of 125.0 feet; thence West parallel with the said South line of said Northwest Quarter of said Section 23 a distance of 250.0 feet more or less to a point on the West line of said Section 23; thence South a distance of 125.0 feet more or less to the point of beginning (except that part taken and used for Busse Road)

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

EXHIBIT B

SITE PLAN  
OF EXISTING FACILITY

{attached}

Property of Cook County Clerk's Office





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## EXHIBIT C

### ADDITIONAL MAINTENANCE AND INSTALLATIONS

#### **Site Access**

New Knox boxes (rapid key entry system) shall be installed for each building which has a fire alarm system.

#### **Life Safety**

Additional directional exit signage shall be installed in the customer service office building located at 2105 S. Busse Road and the corporate office building located at 2101 S. Busse Road.

#### **Health/Property Maintenance**

1. Grass and weeds on the Subject Property, other than Parcel A on the survey (Exhibit B), shall be maintained below eight inches ("8") in height.
2. Owner shall be responsible for maintaining a commercially reasonable program of bug and rodent control and extermination in all improved buildings.