

**AMENDMENT ONE TO INTEGRATED SOLID WASTE MANAGEMENT SERVICES AGREEMENT**

THIS **AMENDMENT ONE** to the INTEGRATED SOLID WASTE MANAGEMENT SERVICES AGREEMENT ("**Amendment**") is dated as of the 28th day of November, 2022 and is entered into by and between the **CITY OF CERRITOS**, a California charter city and municipal corporation ("**City**"), and **ARAKELIAN ENTERPRISES, INC., d/b/a ATHENS SERVICES**, a California corporation ("**Athens**" and "**Contractor**") on the terms and subject to the conditions set forth herein. The City and Athens shall sometimes hereinafter be referred to collectively as the "**Parties.**"

**RECITALS:**

- A. On April 13, 2017, the City entered into an Agreement for Integrated Solid Waste Management Services ("**Agreement**") with CalMet Services, Inc.; and
- B. The Agreement became effective on July 1, 2017, and is scheduled to expire on December 31, 2027; and
- C. On December 9, 2021, the City received a request from Athens to approve the assignment of the Agreement from CalMet Services, Inc. to Athens; and
- D. On March 24, 2022, the Cerritos City Council reviewed, considered and approved the assignment of Agreement to Athens, enabling Athens to assume the obligations of the "Contractor" under the Agreement; and
- E. On April 1, 2022, City received notification from Athens that their acquisition of CalMet and CalMet's assets, including the Agreement, had been consummated, effective April 1, 2022; and
- F. Among other requirements, the Agreement requires the Contractor to provide residential and commercial refuse, recycling and green waste collection and processing services within City boundaries; and
- G. The Agreement imposes the maximum rates that Contractor can charge residential and commercial customers within City boundaries for services; and
- H. The Agreement includes provisions for the City to approve annual adjustments to the maximum rates that Contractor can charge residential and commercial customers within City boundaries for services; and
- I. Senate Bill 1383 (stats. 2016, ch. 395) ("SB 1383"), enacted in 2016, requires the City to, among other things, implement organics waste recycling programs.

**AGREEMENT:**

NOW, THEREFORE, based on the foregoing Recitals, which are a substantive part of this Amendment and hereby incorporated herein by reference, the Parties hereby agree to amend the Agreement as follows, effective December 1, 2022 ("**Amendment Effective Date**"):

- 1. Residential Organic Waste Collection. Section 4.3.1 of the Agreement is hereby amended to include, in addition to the collection of "Green Waste" as

defined in Section 1.29 of the Agreement, the collection of source-separated "Organic Waste" as defined in Title 14 of the California Code of Regulations (14 CCR) Section 18982(a)(46) (or successor provision).

2. Commercial Organic Waste Service Rollout. For Commercial generators, as defined under Section 6.09.020 of the Cerritos Municipal Code, Contractor shall collect source separated Organic Waste no less than one (1) time per week. In furtherance of the requirements hereunder, Contractor shall procure and distribute collection containers to Commercial generators, in phases, commencing on the Amendment Effective Date and fully completed no later than July 1, 2023, with Commercial generators producing comparatively high volumes and more tonnage of Organic Waste to be part of the early phases of distribution of Organic Waste Carts. The Commercial generators included in each phase, as well as the service level assigned to each generator, shall be subject to Contractor's delivery to City of a written notice of the same ("Commercial Service Notice"), and City's disapproval, in writing, of that notice within five (5) business days; if City fails to deliver to Contractor disapproval of the Commercial Service Notice within said five (5) business days, City shall be deemed to have approved the Commercial generators in each phase as well as the service level assigned to each generator; if City timely disapproves, in writing, the Commercial Service Notice within said five (5) business days, Contractor shall revise and resubmit a revised Commercial Service Notice with modifications to the Commercial generators included in each phase as well as the service level assigned to each generator. Contractor may adjust the foregoing initial level of service hereunder in accordance with Paragraph 5 of this Amendment.
3. Acceptable Organic Waste Materials. Notwithstanding any provision in the Agreement to the contrary, the Organic Waste materials that are to be accepted for collection in Organic Waste containers for collection of Organic Waste are set forth in Exhibit 2A of this Amendment. Contractor shall also implement the protocols specified in Exhibit 2B to prevent or minimize "Prohibited Container Contaminants" consistent with 14 CCR Section 18984.5(b) in a manner deemed safe by Contractor pursuant to reasonable industry standards.
4. Field Audits; Sustainability Auditor. Contractor shall assign a "Sustainability Auditor" to the City and allocate twelve (12) hours per week of his/her time to conduct field audits of accounts within the City to determine Customer subscription to Organic Waste collection services required in accordance with SB 1383 and the Cerritos Municipal Code. Such audits shall include notification to City via written correspondence (letter/email) of an alleged or actual violation of Section 6.09.030 and/or 6.09.040 (or successor provisions) of the Cerritos Municipal Code, City will determine if there is such a violation, and upon City request, Contractor shall support City in mailing appropriate follow-up written correspondence on behalf of City to account holders.
5. Service Changes. Contractor may reduce or increase any Organic Waste service level, including service frequency and container types, based on inspection, audit, or review at any time, subject to written prior notice of the same delivered to City ("Service Change Notice"), and thereafter the City's review, and City disapproval, in writing, within five (5) business days of the Service Change Notice; if City fails to deliver to Contractor disapproval of the



Service Change Notice within said five (5) business days, City shall be deemed to have approved the reduction or increase of Organic Waste service level, including service frequency and container types; if City timely disapproves, in writing, the Service Change Notice within said five (5) business days, Contractor shall maintain the same Organic Waste service level, including service frequency and container types, that was in place prior to the Service Change Notice. Concurrently with any request submitted by Contractor pursuant to this paragraph 5, Contractor shall submit to City any and all inspection, audit, and/or review reports that Contractor uses in support of its request to reduce or increase any Organic Waste service level. To the extent permitted by law, Contractor may charge fees to cover the costs from the changes to Organic Waste service levels, as specified in Exhibit 1 of the Agreement as may be adjusted pursuant to Section 6.4 of the Agreement.

6. Route Reviews; Waste Evaluations. Section 5.4 of the Agreement shall be amended to add the following paragraphs:

Contractor shall conduct hauler route reviews for "Prohibited Container Contaminants" consistent with 14 CCR Section 18984.5(b) in a manner deemed safe by Contractor pursuant to reasonable industry standards.

Contractor shall conduct waste disposal characterization evaluations that meet the requirements of 14 CCR Section 17409.5.1 with respect to waste delivered to an Contractor-owned or -controlled facility or with respect to information otherwise accessible to Contractor that permits it to perform characterization studies.

The foregoing studies shall be conducted by Contractor upon the request of the City, but no more than once every two (2) years. Contractor shall pay for all cost and expenses for the completion and reporting requirements of such studies.

Upon the completion of any study, Contractor shall delivery to City a copy thereof, in digital format when possible and if not by hardcopy, for any study completed pursuant to this Section 5.4.

7. Multiple Cities Organic Waste Collection Routes. Contractor contracts with multiple jurisdictions to provide Organic Waste Collection services. Subject to City's review and prior written approval, Contractor may collect source separated Organic Waste from multiple cities within one Organic Waste route set by and serviced by Contractor. Contractor shall deliver to City data for estimated and actual tonnage volume from cities within Contractor's proposed one Organic Waste route, days and times of service, and any other information and documentation that City may reasonably request as part of its review and approval. If authorized by City to collect from multiple cities within one Organic Waste route, Contractor shall report to City the City's source separated Organic Waste tonnage, which shall be subject to review and verification by City or City's consultant retained for such purpose. If, subsequent to any review and verification by City or City's consultant, Contractor's report of the City's source separated Organic Waste tonnage is incorrectly reported by one percent (1%) or more, Contractor shall immediately cease and desist from including City in any collection of source separated Organic Waste from multiple cities and shall immediately collect

source separated Organic Waste only from City. Contractor shall continue to have the obligation to report to City the City's Organic Waste tonnage.

8. SB 1383 Call Center. Contractor shall ensure that representatives supporting calls received by Contractor's twenty-four (24) hour call center provided under Section 5.2.1. of the Agreement are qualified to communicate information and respond to Customer inquiries concerning SB 1383.
9. Food Recovery Support Payment. Contractor shall pay to City a sum of \$6,000 per year to support food recovery support programs in the City. Contractor's first payment shall be made within sixty (60) days of the Amendment Effective Date and the second and each subsequent annual payment made within sixty (60) days after September 1 of each year the Agreement, as amended, is in effect.
10. Edible Food Recovery Support. Contractor shall maintain a current list of Tier 1 and Tier 2 Commercial Edible Food Generators in the City, as well as a list of Food Recovery Organizations that provide services within the City. Contractor shall disseminate to each Tier 1 and Tier 2 Commercial Edible Food Generators information about the City's Food Recovery program on an annual basis. For the purposes of this provision, Tier 1 and Tier 2 Commercial Edible Food Generators shall mean "tier one commercial edible food generator" and "tier two commercial edible food generator," respectively, as defined in Section 6.09.020 of the Cerritos Municipal Code. "Food Recovery Organization" shall have the same meaning set forth in Section 6.09.020 of the Cerritos Municipal Code.
11. Paper Shredding Events. Contractor agrees to provide two (2) on-site paper shredding trucks at one 4-hour community paper shredding event per calendar year, at times and location(s) specified by City and agreed upon by Contractor (which shall not be unreasonably withheld or delayed).
12. Compost Events. Contractor shall provide labor for the staffing of two 4-hour compost events annually, at times and location(s) determined by the City and agreed upon by Contractor (which shall not be unreasonably withheld or delayed). At the events, two truckloads of compost of at least 42 tons will be provided free-of-charge to City residents. Labor provided by Contractor shall include one person at an informational booth, one person assisting with traffic flow, and three persons shoveling and filling bags for residents.
13. SB 1383 Procurement. As part of City's efforts to satisfy annual procurement requirements specified 14 CCR Section 18993.1, Contractor shall: (i) provide at least 126 tons of compost or mulch, delivered to location(s) selected by City and agreed upon by Contractor (which shall not be unreasonably withheld or delayed) that will meet the description in 14 CCR Section 18993.1(f)(1); and (ii) provide City with the right to require Contractor to procure, on an annual basis, up to 83,325 Diesel Gallon Equivalent units (gallons) of California-derived Renewable Natural Gas for use in collection vehicles used by Contractor in the City that will meet the description in 14 CCR Section 18993.1(f)(2) ("CRNG"). To implement clause (ii) in the preceding sentence, Contractor shall, no later than November 1 of each year: (a) notify the City of the status of the commercial availability of CRNG for use on collection routes within the City for the following calendar year; and (b)

notify the City of Contractor's cost per gallon of CRNG for the following calendar year; and (c) notify the City of Contractor's cost per gallon of fuel that Contractor would otherwise use on collection routes within the City for the following calendar year, as specified in Section 4.5.3(B) of the Agreement. City shall then have the right, no later than December 15 of each calendar year, to require and direct Contractor to procure up to 83,325 gallons of CRNG at a cost to the City of the difference in Contractor's cost between CRNG and the fuel that Contractor would have otherwise used on the collection routes in the City, payable to contractor no later than March 1 of the calendar year in which the CRNG is allocated for use in the City. If Contractor's cost of CRNG is less than the cost of the fuel that Contractor would otherwise use on collection routes within the City, then Contractor shall use CRNG on all collection routes within the City for the given calendar year at no cost to City up to 83,325 Diesel Gallon Equivalent units unless Contractor elects to use additional CRNG at no cost to City. Contractor acknowledges and agrees this is a material term to this Amendment because the City shall be entitled to receive the associated procurement credits to satisfy 14 CCR Section 18993.1.

14. Program Changes. Contractor's duties with respect to its support of City's compliance of SB 1383 and its regulations are limited to the services expressly set forth herein. Contractor may request a rate adjustment pursuant to Section 6.5 of the Agreement in the event Contractor incurs additional costs, arising from or relating to (i) additional or modified Organic Waste services as directed by City, including but not limited to requirements relating to diversion, facilities, container color, container labelling, waivers, and reporting, or (ii) required due to a change in law. Any request for such rate adjustment shall be governed by Section 6.5 and any other applicable provisions of the Agreement.
15. Revised Rates. Exhibit 1 of the Agreement shall be deleted in its entirety, and shall be amended by Exhibit 1 attached to this Amendment and by the reference integrated herein. All references in the Agreement to Exhibit 1 shall be deemed to refer to Exhibit 1 of this Amendment. The rates specified in Exhibit 1 of this Amendment shall be the maximum rates that Contractor is permitted to charge its Customers in the City effective December 1, 2022.
16. Annual Rate Approval. Section 6.4, inclusive of its subparts at subsections 6.4.1 through and including 6.4.3 and Exhibits 2A through and including 2D of the Agreement, are hereby deleted in their entirety and replaced with the following:

#### 6.4 Method of Adjustment

##### 6.4.1 General

Pursuant to Section 6.3, Contractor may request an adjustment to the maximum rates according to the method and formula described in Section 6.4.2, subject to the review and approval by the City Manager. Such approval of the City Manager is permitted if, and only if, the request by Contractor is consistent with the rate adjustment methodology outlined in the Agreement.

##### 6.4.2 Potential Rate Adjustments/Increases per CPI; Annual Cap

The maximum rates set forth in Exhibit 1 shall be adjusted each July 1st for the term of the Agreement by the percentage increase, if any, in the Consumer Price Index – All Urban Consumers, All Items – Los Angeles-Long Beach-Anaheim, CA (“CPI”) from March of the previous calendar year through March of the current calendar year, not to exceed an increase of five percent (5%) per rate year; provided, however, that if the CPI adjustment increase in one calendar year is greater than five percent (5%), then rate adjustments in excess of five percent (5%) in any rate year shall be carried forward and applied to the next rate year to which the rate adjustment (inclusive of any carried-forward balance) does not exceed the five percent (5%) rate year cap (“Rollover”). If the CPI adjustment in one year is less than zero percent (0%), then there shall be no adjustment to rates in that rate year unless there is Rollover to be applied. Upon a rate year with negative rate adjustment without the application of Rollover, the negative rate adjustment shall be applied to offset the next rate year to which the rate adjustment exceeds zero percent (0%).

17. Section Headings. The section headings in this Amendment are for convenience of reference only and are not intended to be used in the construction of this Amendment or to alter or affect its provisions.
18. Defined Terms. Except as expressly specified otherwise in this Amendment, capitalized words and phrases not otherwise defined in this Amendment shall have the same definition and meaning ascribed to them in the Agreement.
19. Interpretation. This Amendment does not and shall not be interpreted to change any term, condition, program, or other detail included in the Agreement unless specifically addressed in this Amendment. Except as specifically and expressly provided in this Amendment, all of the terms, conditions, programs, and other details in the Agreement remain in full force and effect, and binding on the Parties hereto.
20. Entire Amendment. This Amendment and the Agreement contain the entire agreement and understanding between the Parties with respect to the subject matter of this Amendment and supersedes any and all prior or contemporaneous oral and written representations, warranties, agreements, and understandings between the Parties concerning the subject matter of this Amendment.
21. Due Execution. The person(s) executing this Amendment on behalf of a Party hereto warrant(s) that (i) such Party is duly organized and existing; (ii) such person(s) are duly authorized to execute and deliver this Amendment on behalf of said Party; (iii) by so executing this Amendment, such Party is formally bound to the provisions of this Amendment; and (iv) entering into this Amendment does not violate any provision of any other agreement to which said Party is bound.

22. Counterparts. This Amendment may be executed in counterparts, each of which shall be considered an original.

**IN WITNESS THEREOF**, the Parties hereto have executed this Amendment on the date first above written.

The "City"

CITY OF CERRITOS

  
MAYOR CHUONG VO

ATTEST:

  
CITY CLERK

"Athens" and "Contractor"

ATHENS SERVICES

BY   
RON ARAKELIAN III

Executive Officer  
Title

BY   
ADAM ARAKELIAN

Executive Officer  
Title

**EXHIBIT 1**  
**MAXIMUM CONTRACTOR RATES**

Following are the maximum contractor rates for September 1, 2022 through June 30, 2023

<b>Residential Services</b>	<b>Maximum Contractor Rate</b>
Cart Service – up to 96 gallons of capacity each: refuse, recycling, and green waste cart(s)	\$23.89 per mo.
Additional 96 gallons of capacity: Refuse Cart(s)	\$9.89 per mo.
Additional 96 gallons of capacity: Recycling Cart(s) Note: Second 96 gallons of capacity free of charge.	\$9.89 per mo.
Additional 96 gallons of capacity: Green Waste Cart(s) Note: Second 96 gallons of capacity free of charge.	\$9.89 per mo.
Extra Empty – Refuse, Recycle or Green Waste	\$16.29
Bulky Item Pickup (Not on pickup day) per pick up not to exceed 5 items	\$45.44
Cart Maintenance Fee (Requires City Approval)	\$96.43
Sharps Collection Container- Gallon size	\$59.72 each
Cart size exchange (multiple exchanges permitted on one trip)	\$24.90 per trip
Cart Customer Special Pickups	No charge
Cart Wheel-Out and Return Service	\$45.63 per mo.

<b>Maximum Monthly Refuse Bin Contractor Rates</b>							
<b>Container Size</b>	<b>Pickups per week</b>						
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
1 cubic yard	\$115.61	\$195.70	\$278.27	\$363.08	\$450.34	\$539.95	\$655.57
2 cubic yard	\$153.22	\$259.09	\$367.43	\$478.08	\$591.04	\$706.37	\$854.89
3 cubic yard	\$168.71	\$285.42	\$402.10	\$518.77	\$635.46	\$752.21	\$935.08
4 cubic yard	\$199.23	\$351.04	\$502.81	\$654.77	\$809.86	\$964.95	\$1179.11
2 yd compactor	\$275.77	\$466.39	\$661.34	\$860.48	\$1063.85	\$1271.52	\$1538.80
3 yd compactor	\$303.65	\$513.74	\$723.76	\$933.83	\$1143.84	\$1353.94	\$1683.10
Locking bin fee	\$22.04	\$27.54	\$33.04	\$38.62	\$44.15	\$50.15	\$55.19
Roll-out Services	\$46.38	\$105.04	\$139.12	\$185.50	\$231.87	\$278.24	\$510.10

Maximum Monthly Recycling Bin Contractor Rates							
Container Size	Pickups per week						
	1	2	3	4	5	6	7
1 cubic yard	\$64.66	\$109.46	\$155.63	\$203.09	\$251.91	\$302.01	\$366.69
2 cubic yard	\$85.71	\$144.91	\$205.52	\$267.38	\$328.82	\$395.12	\$478.17
3 cubic yard	\$94.34	\$159.61	\$224.89	\$290.18	\$355.46	\$420.71	\$523.01
4 cubic yard	\$111.44	\$196.37	\$281.24	\$366.23	\$452.98	\$539.72	\$659.53
Maximum Monthly Manure Bin Contractor Rates							
Container Size	Pickups per week						
	1						
3 cubic yard	\$402.79						
Maximum Monthly Commercial Organics Rates							
Per Cart Pickups per week							
1x	2x						
\$110.05	\$220.11						

Roll-Off Box and Temporary Bin Charges	Maximum Customer Rates
<u>Commercial Customers</u>	
3-yard Clean-up Bin	\$173.38 per bin pull, disposal included
3-yard Clean-up Bin – Extra Empty	\$66.66 per bin pull, disposal included
Roll-Off (6-ton limit)	\$768.63 per pull, disposal included
Lowboy Roll-Off (6-ton limit)	\$768.63 per pull, disposal included
<u>Residential Customers</u>	
Clean-up Bin	\$92.14 per pull, disposal included
3-yard Clean-up Bin – Extra Empty	\$92.14 per pull, disposal included
Roll-Off Mini (3-ton limit)	\$362.34 per pull, disposal included
Roll-Off (6-ton limit)	\$664.85 per pull, disposal included
Lowboy Roll-Off (6-ton limit)	\$664.85 per pull, disposal included

Extra Services			Maximum Customer Rates	
Copy of Facility Weight Ticket/each			\$3.80	
Copy of Workorder/each			\$3.80	
Dry Run/Dead Run Charge per incident			\$113.42	
Roll-off Box Relocation per incident			\$113.42	
Roll-Off Wash			\$113.97	
Roll-off Inactivity Charge per day			\$52.86	
Cleanup Bin Inactivity Charge per day			\$7.32	
Overweight Fee (tons over limit)			\$106.01	
Commercial Bin Maintenance Fee			\$182.50	
3 Yard Monthly Bin Rental (on-call customers)			\$54.61	
Bin Customer Special Pickups – bulky items and electronic waste (not to exceed 5 items)			\$46.05 per trip	
Maximum Extra Bin Pickup Fee with Lock Lid– per extra pickup based on bin size:	1 yard	2 yards	3 yards	4 yards
	\$82.89	\$91.50	\$100.70	\$109.93
Maximum Extra Bin Pickup Fee – per extra pickup based on bin size:	1 yard	2 yards	3 yards	4 yards
	\$64.50	\$73.70	\$82.91	\$92.14
Emergency Services – One truck, one-man crew			\$146.00 per hour	
Emergency Services – One truck, one-man crew (week-ends, holidays, overtime)			\$257.69 per hour	
Finance Charge – charged to accounts 30 days or more overdue			1.5% per month	
Return payment fee/credit card decline fee			\$34.39	
Maximum Re-Start Fee – charged to an account that was closed (Stop serviced) for non-payment			\$37.86	
Maximum Re-Start Fee – charged to deliver a bin(s) for an account that was closed for non-payment			\$126.21	
Additional Street Sweeping rate per Curb Mile			\$27.64	
Additional Sweeping Services during regular working hours (M-F, 8am-5pm)			\$75.72/hour	
Additional Sweeping Services after regular working hours			\$94.66/hour	



**Amendment Exhibit 2A**  
**LIST OF ACCEPTABLE ORGANIC WASTE MATERIALS**

**GREEN WASTE**

- Flower and hedge trimmings
- Grass clippings
- Leaves and branches
- Lumber, scrap wood, and plywood (not painted or treated)
- Weeds

**FOOD SCRAPS**

- Bread, rice, and pasta
- Cheese and dairy
- Coffee grounds and filters
- Fruits and vegetables
- Flowers and herbs
- Meat, bones, and poultry
- Seafood and soft shells
- Pet food (nonmedicated)

**FOOD-SOILED PAPER\***

- Food-stained paper
- Paper egg cartons
- Paper napkins and kitchen paper towels
- Pizza boxes
- Plates
- To-go boxes (no coating)
- Wood and fiber-based utensils

\*Must be 100% fiber-based. No materials with petroleum-based plastic, wax, or bioplastic coating, liner, or laminate.

**UNACCEPTED ITEMS**

- All plastics
- Cacti, succulents, and yucca
- Compostable plastics (bioplastics)
- Coffee cups and pods
- Fats, oils, and grease
- Food stickers (please remove from items)
- Gloves
- Hard shells (clams, mussels, oysters)
- Medication
- Palm fronds
- Paper napkins and paper towels with cleaning chemicals
- Parchment and wax paper
- Pet waste
- Rocks and soil
- Rubber bands and twist ties
- Tea bags
- Textiles
- Tissues and wet wipes

**Amendment Exhibit 2B  
CONTAMINATION PROTOCOLS**

1. First and Second Events. Upon the first and second discoveries of Prohibited Container Contaminants within a given calendar year starting January 1, Contractor will collect the contaminated waste if safe to do so, treat the waste as Solid Waste for handling and billing purposes, and affix a "Contamination Violation Notice" to any container with contaminated waste. Contractor shall also report issuance of any such notices to City. The Contamination Violation Notice will contain instructions on the proper procedures for sorting waste, and Contractor must notify the Customer by phone, by U.S. mail, by email, in person, or by tag of the following: (i) for the third and subsequent discovery of Prohibited Container Contaminants, the Customer may be charged a contamination fee for each contaminated container, and (ii) for the fifth and subsequent discoveries of Prohibited Container Contaminants, the Customer may be charged a contamination fee for each contaminated container, and Contractor may increase the size of the Customer's container or require an additional container(s). Contractor must also contact the Customer by phone, by U.S. mail, by email, in person, or by tag to ensure that the Customer has the appropriate level of service for proper collection of waste.

2. Third and Fourth Events. Upon the third and fourth discoveries of Prohibited Container Contaminants within a given calendar year starting January 1, Contractor will collect the waste in the contaminated container(s) if safe to do so, treat the waste as Solid Waste for handling and billing purposes, and affix a Contamination Violation Notice to the contaminated container. Contractor may also elect to charge the then-maximum contamination fee for the discovery of Prohibited Container Contaminants. For any assessed contamination fee, Contractor must provide digital/visual documentation of Contractor's discovery of Prohibited Container Contaminants to the Customer and City.

3. Five or More Events. Upon each of the fifth and any subsequent discoveries of Prohibited Container Contaminants within a given calendar year starting January 1, Contractor will collect the waste in the contaminated container(s) if safe to do so, treat the waste as Solid Waste for handling and billing purposes, and charge a contamination fee for each event. For any assessed contamination fee, Contractor must provide to the customer and City digital/visual documentation of Contractor's discovery of Prohibited Container Contaminants. Upon five (5) business days' notice to City and the Customer, Contractor may (i) increase the size of the Customer's container, require additional containers for excessive Prohibited Container Contaminants, or increase collection frequency; (ii) impose the then-maximum contamination fee; and/or (iii) provide notice that Contractor has recommended that City commence any applicable code enforcement action against the Customer. City will consult with Contractor and consider, and pursue as applicable, appropriate legal remedies against offending Customers in order to secure discontinuance of the Prohibited Container Contaminants. All City costs of such action shall be recovered from the offending Customers.

4. Disputes. If a Customer disputes, in writing, an assessment of a contamination fee within 30 days of the assessment, Contractor will temporarily halt any such assessment and Contractor may request a ruling by the City Manager to resolve the dispute. A request by Contractor to the City Manager to render a decision on any such dispute must be filed within ten (10) business days of receipt of a Customer's written dispute, and Contractor must include written documentation and digital/visual evidence of ongoing overall problems. Upon receipt of such documentation, the City Manager will rule on the dispute within ten (10) business days, and the City Manager's decision resolving the dispute between the Customer and Contractor will be final.

**CITY OF CERRITOS**

**RESOLUTION NO. 2022-17**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CERRITOS  
CONSENTING TO A REQUEST FOR ASSIGNMENT OF THE  
INTEGRATED SOLID WASTE MANAGEMENT SERVICES  
AGREEMENT TO ATHENS SERVICES**

WHEREAS, pursuant to Section 6.08.180 of the Cerritos Municipal Code, the Cerritos City Council has broad authority to award a franchise and enter into a contract for the collection, pick-up, and removal of garbage, rubbish, and other refuse-related materials; and

WHEREAS, on April 13, 2017, the Cerritos City Council reviewed, considered and approved the current Integrated Solid Waste Management Services Agreement with CalMet Services, Inc. (CalMet); and

WHEREAS, said Agreement became effective on July 1, 2017, and will expire on December 31, 2027; and

WHEREAS, pursuant to Section 12.5 of said Agreement, CalMet has submitted a request to transfer the Agreement to Athens Services (Athens); and

WHEREAS, an evaluation and comparison of the financial resources and stability of Athens has been completed and revealed that Athens holds a financial standing that is sufficient to assume the conditions of the Agreement; and

WHEREAS, based upon an extensive history of effective solid waste management service with municipalities in southern California, Athens has been determined to be adequately capable of performing all Agreement requirements for the remainder of the term; and

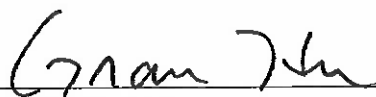
WHEREAS, the consent provided by the Cerritos City Council is only for the approval of the assignment of said Agreement in effect as of the date of this Resolution, and said assignment does not and shall not be interpreted to change any term, condition, rate, program, or other detail included in the Agreement as of the date of this Resolution.

NOW, THEREFORE, THE CERRITOS COUNCIL DOES HEREBY RESOLVES AS FOLLOWS:


**SECTION 1.** The Cerritos City Council does hereby consent to the request for transfer of the Integrated Solid Waste Management Services Agreement to Athens Services.

**SECTION 2.** This Resolution shall become effective immediately upon adoption.

PASSED, APPROVED AND ADOPTED this 24th day of March, 2022.

  
\_\_\_\_\_  
Grace Hu, Mayor

ATTEST:

  
\_\_\_\_\_  
Vida Barone, City Clerk

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   ) ss.  
CITY OF CERRITOS         )

I, Vida Barone, City Clerk of the City of Cerritos, California, DO HEREBY CERTIFY that the foregoing **Resolution No. 2022-17** was duly approved and adopted by the City Council of the City of Cerritos at a Regular Meeting held on the 24th day of March, 2022, and that it was so adopted as follows:

AYES:	Councilmembers –	Barrows, Solanki, Yokoyama, Vo, Hu
NOES:	Councilmembers –	None
ABSENT:	Councilmembers –	None
ABSTAIN:	Councilmembers –	None

DATED: March 24, 2022



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Vida Barone, City Clerk

AGREEMENT  
BETWEEN  
CITY OF CERRITOS  
AND  
CALMET SERVICES, INC.  
FOR  
INTEGRATED SOLID WASTE  
MANAGEMENT SERVICES

\* \* \*

**April 13, 2017**

AGREEMENT  
BETWEEN  
CITY OF CERRITOS  
AND  
CALMET SERVICES, INC.  
FOR  
INTEGRATED SOLID WASTE  
MANAGEMENT SERVICES

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### **Exhibits**

1. Initial Maximum Rates
2. Sample Rate Adjustment Formula
3. Faithful Performance Bond
4. Street Sweeping
5. Organics Program

## **AGREEMENT**

This Agreement for Integrated Solid Waste Management Services (hereinafter the "Agreement") is entered into this 13<sup>th</sup> day of April, 2017, by and between the City of Cerritos ("City") and CalMet Services, Inc. ("Contractor"), for the collection, transportation, recycling, processing, and disposal of solid waste and other services related to meeting the goals and requirements of the California Integrated Waste Management Act.

## **RECITALS**

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (AB 939) (California Public Resources Code Section 49100 et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions; and,

WHEREAS, pursuant to California Public Resources Code Section 49300 and 49500-49500, the City of Cerritos has determined that the public health, safety, and well-being require that an exclusive franchise be awarded to a qualified company for the collection, transfer and transportation, recycling, processing, and disposal of solid waste and other services related to meeting the diversion goals required by AB 939, and other requirements of the California Integrated Waste Management Act; and,

WHEREAS, City declares its intention of maintaining reasonable rates and quality service related to the collection, transfer and transportation, recycling, processing, and disposal of solid waste and other services; and,

WHEREAS, Contractor has provided solid waste services to the City, as CalMet Services, Inc. and as Calsan, Inc. since 1978, and the City Council of City has decided to renew its relationship with Contractor and award it the franchise set forth in this Agreement, subject to the rights and limitations of this Agreement; and

WHEREAS, City and Contractor ("Parties") hereto desire to enter said Agreement; and,

WHEREAS, City and Contractor are mindful of the provisions of the laws governing the safe collection, transport, recycling, processing and disposal of solid waste, including AB 939, the Resource Conservation and Recovery Act ("RCRA"), and the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). City and Contractor desire to leave no doubts as to their respective roles and to memorialize that by entering into this

Agreement, City is not thereby becoming an "arranger" or a "generator" as those terms are used in CERCLA, and that it is Contractor, not City, who is "arranging for" the collection from residences in the City, transport for disposal, composting or other processing, and recycling of municipal solid waste which may contain hazardous substances; and further to confirm that as a material inducement to City entering into this Agreement, Contractor has agreed to fully indemnify City in connection with any claims, losses, liabilities, lawsuits or actions relating to the inadvertent or intentional collection, transportation and/or disposal of hazardous materials that may occur in connection with Contractor's performance under this Agreement, and

WHEREAS, Contractor has agreed, as part of this Agreement, acting as an independent contractor to provide such personnel, equipment and supplies as are necessary to ensure City complies with the requirements of Public Resources Code Section 49100, et seq.,

NOW, THEREFORE, in consideration of the premises above stated and the terms, conditions, covenants and agreements contained herein, the Parties do hereby agree as follows:

## **ARTICLE 1**

### **DEFINITIONS**

The terms used in this Agreement shall have the meaning set forth in this Article 1. In the event a term is not defined in this Article 1, then it shall have the meaning set forth in the Cerritos Municipal Code or in Division 30, Part 1, Chapter 2 of the California Public Resources Code (with precedence given to definitions in the Cerritos Municipal Code over conflicting definitions contained in the Public Resources Code). Except as provided in Article 1, words beginning with lower case letters are being used with their common ordinary meanings, not as defined terms. Otherwise, the following capitalized words and terms shall have the following meanings:

#### **1.1 AB 939**

"AB 939" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq.), as it may be amended from time to time.

#### **1.2 Affiliate**

"Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect ownership interest or common management shall be deemed to be "Affiliated with" Contractor and included within the term "Affiliates" as used herein. An Affiliate shall include a business in which Contractor owns a direct or indirect ownership interest, a business which has a direct or indirect ownership interest in Contractor and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply.

#### **1.3 Billings**

"Billings" or "Billing" or "Bill" means the statements of charges provided to Customers for services rendered by Contractor.



#### **1.4 Bin**

"Bin" means a metal Container with hinged lids and wheels with a capacity of less than ten (10) cubic yards.

#### **1.5 Bin Service**

"Bin Service" means Solid Waste Handling Services in which a Bin is used for the Collection of Solid Waste.

#### **1.6 Bulky Items**

"Bulky Items" means Solid Waste that cannot and/or would not typically be accommodated within a Cart including specifically: furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as "white goods"); Residential wastes (including wood waste, tree branches, scrap wood, and bagged Green Waste or bundled Green Waste no larger than four feet long and 18 inches in diameter); and clothing. Bulky Items do not include car bodies, Construction and Demolition Debris or items requiring more than two persons to remove. Other items not specifically included or excluded above will be Collected provided that they are not more than eight feet in length, four feet in width, or more than 150 pounds. In the event a question ever arises as to whether a specific item or category of items meets the definition of Bulky Items, City shall be responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties.

#### **1.7 CalRecycle**

"CalRecycle" means the State of California's Department of Resources Recycling and Recovery, and, as this department was structured prior to January 1, 2010, the California Integrated Waste Management Board, or CIWMB.

#### **1.8 Cart**

"Cart" means a plastic Container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of no less than 30- and no greater than 101-gallons.

## **1.9 City**

"City" means City of Cerritos, a municipal corporation, and all the territory lying within the municipal boundaries of City as presently existing or as such boundaries may be modified during the term of this Agreement.

## **1.10 City Council**

"City Council" shall mean the City Council of the City of Cerritos.

## **1.11 City Manager**

"City Manager" shall mean the City Manager of the City of Cerritos.

## **1.12 Collect/Collection**

"Collect" or "Collection" means to take physical possession, transport, and remove Solid Waste within and from City.

## **1.13 Commercial**

"Commercial" refers to services performed at or for Commercial Premises.

## **1.14 Commercial Premises**

"Commercial Premises" means Premises upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding Residential Premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property. Notwithstanding any provision to the contrary herein, in the Cerritos Municipal Code, or otherwise, for purposes of this Agreement, Premises upon which the following uses (as defined in the Cerritos Municipal Code) are occurring shall be deemed to be Commercial Premises: Adult Residential Facilities, Assisted Living Facilities, Convalescent Homes, Dormitories, Extended Stay Motels, Group Residential Facilities, Group Care Facilities, Hotels, and Motels.



#### **1.15 Contractor**

"Contractor" means CalMet Services, Inc., a corporation organized and operating under the laws of the State of California and its officers, directors, employees, agents, companies and subcontractors.

#### **1.16 Contractor Compensation**

"Contractor Compensation" means the revenue received by the Contractor from Customers in return for providing services in accordance with this Agreement.

#### **1.17 Construction and Demolition Debris**

"Construction and Demolition Debris" means Solid Waste generated at a Premises that is directly related to construction or demolition activities occurring thereon.

#### **1.18 Container**

"Container" means any and all types of Solid Waste receptacles, including Carts, Bins and Roll-off Boxes.

#### **1.19 CPI**

"CPI" means the Consumer Price Index for All Urban Consumers (CPI-U), Los Angeles – Riverside – Orange County, all items index.

#### **1.20 Customer**

"Customer" means a Person receiving Solid Waste Handling Services from Contractor pursuant to the terms of this Agreement.

#### **1.21 Director of Public Works**

"Director of Public Works" shall mean the Director of Public Works of the City of Cerritos.

#### **1.22 Disposal**

"Disposal" means the ultimate disposition of Solid Waste Collected by Contractor at a landfill or otherwise in full regulatory compliance.

### **1.23 Disposal Site(s)**

"Disposal Site(s)" means the Solid Waste handling Facility or Facilities utilized for the ultimate Disposal of Solid Waste Collected by Contractor.

### **1.24 Diversion**

"Diversion" means any combination of waste prevention (source reduction), recycling, reuse and composting activities that reduces waste disposed at landfills, provided such activities are recognized by CalRecycle as Diversion in its determination of the City's Diversion rate and compliance with AB 939. CalRecycle may limit Diversion considered to be achieved through Transformation/waste-to-energy, use of Green Waste as alternative daily cover ("ADC") and other activities.

### **1.25 Electronic Waste**

"Electronic Waste" means electronic equipment, including stereos, televisions, computers and monitors, VCRs, microwaves, cellular phones and other similar items commonly known as "brown goods" and "e-waste."

### **1.26 Environmental Laws**

"Environmental Laws" means all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6902 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the California Hazardous Substance Account Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

### **1.27 Facility**

"Facility" means any plant or site, owned or leased and maintained, operated or used by Contractor for purposes of performing under this Agreement.

### **1.28 Food Waste**

"Food Waste" means all food (including fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese and eggshells);

Food-soiled paper that is mixed in with food waste (including waxed cardboard, waxed paper, napkins, paper towels, paper plates, paper milk cartons);

Tea bags;and,

Coffee grounds and filters.

Food Waste is a subset of Organic Waste.

### **1.29 Green Waste**

"Green Waste" means tree trimmings, wood stumps, grass cuttings, dead plants, leaves, branches, flowers, plant stocks, and dead trees (not more than six (6) inches in diameter or 48 inches in length) and similar materials. Green Waste excludes yucca and palm fronds that should be Collected as Refuse.

### **1.30 Gross Receipts**

"Gross Receipts" means any and all revenue received from Billings by City or Contractor , and compensation in any form, of Contractor or subsidiaries, parent companies or other Affiliates of Contractor, for services provided under this Agreement, in accordance with generally accepted accounting principles, including, but not limited to, Customer fees for Collection of Solid Waste Handling Services, without subtracting Franchise Fees or other fees or any other cost of doing business. Sales revenue from the sale of Recyclable Materials is excluded from Gross Receipts for purposes of calculating Franchise Fees. Notwithstanding the foregoing, Gross Receipts shall not include revenues received by Contractor or its Affiliates which are derived from services which are not provided pursuant to this Agreement.

### **1.31 Hazardous Substance**

"Hazardous Substance" shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Waste", "toxic waste", "pollutants" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, 25316, 25501 and 25501.1; (vi) the Clean Air Act, 42 USC §7901 et seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local Environmental Laws currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

### **1.32 Hazardous Waste**

"Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

### **1.33 Household Hazardous Waste ("HHW")**

"Household Hazardous Waste" means Hazardous Waste generated at Residential Premises.

### **1.34 Materials Recovery Facility ("MRF")**

"Materials Recovery Facility" or "MRF" means a permitted Solid Waste Facility where Solid Wastes or Recyclable Materials are sorted or separated for the purposes of Recycling, processing or composting.

### **1.35 Multi-Family Dwelling**

"Multi-Family Dwelling" means a unit in any building or lot containing five or more dwelling units. Multi-Family Dwelling units generally receive Refuse Collection service through the use of shared Bins.

### **1.36 Organic Waste**

"Organic Waste" means Food Waste and Green Waste, and other compostables, collectively or individually.

### **1.37 Organic Waste Processing Facility**

"Organic Waste Processing Facility" means a permitted Facility where Organic Waste is sorted, mulched or separated for the purpose of Recycling, reuse or composting.

### **1.38 Owner**

"Owner" means the Person holding the legal title to the real property constituting the Premises to which Solid Waste Collection service is to be provided under this Agreement or the Person holding legal title to the Disposal Site.

### **1.39 Person**

"Person" means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of Los Angeles, cities, and special purpose districts.

### **1.40 Premises**

"Premises" means any land, or building in City where Solid Waste is generated or accumulated.

### **1.41 Rate Year**

"Rate Year" means the period July 1 to June 30, for each year during the Term of this Agreement.

#### **1.42 Recycling**

"Recycling" means the processing of Recyclable Materials for the purpose of returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The Collection, transportation or Disposal of Solid Waste not intended for, or capable of, reuse is not Recycling. Recycling does not include use of Solid Waste for conversion to energy. Recycling does include collection and diversion of e-waste and green waste.

#### **1.43 Recyclable Materials**

"Recyclable Materials" means Solid Waste that is Source Separated, has some potential economic value, and is set aside, handled, packaged, or offered for Collection in a manner different from Refuse in order to allow it to be processed for Recycling.

#### **1.44 Refuse**

"Refuse" means putrescible and non-putrescible Solid Waste.

#### **1.45 Residential**

"Residential" refers to services performed at and for Residential Premises.

#### **1.46 Residential Premises**

"Residential Premises" means Premises upon which dwelling units exist, including, without limitation, Single Family and Multi-Family Dwellings, apartments, boarding or rooming houses, condominiums, mobile homes, efficiency apartments, and second units. Notwithstanding any provision to the contrary herein, in the Cerritos Municipal Code, or otherwise, for purposes of this Agreement, Premises upon which the following uses are occurring shall not be deemed to be Residential Premises, and rather shall be deemed to be Commercial Premises: Adult Residential Facilities, Assisted Living Facilities, Convalescent Homes, Dormitories, Extended Stay Motels, Group Residential Facilities; Group Care Facilities, Hotels, Motels, and any other businesses not specifically listed at which residency is transient in nature and hence should be classified as Commercial Premises as determined by City on a case by case bases.

#### **1.47 Roll-off Box**

"Roll-off Box" means Solid Waste Collection Containers of 10 cubic yards or larger.

#### **1.48 Scout Truck**

"Scout Truck" means a specialized Collection vehicle, which is smaller than standard Collection vehicles and which is able to easily navigate long, steep, winding, or narrow roads or driveways, or roads in poor condition.

#### **1.49 Single Family Dwelling**

"Single Family Dwelling" means a unit in a building or on a lot containing four or fewer Residential dwelling units. Single Family Dwelling units generally receive individual Cart Refuse Collection service.

#### **1.50 Solid Waste**

"Solid Waste" means all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including Refuse, Construction and Demolition Debris, Bulky Items, Recyclable Materials, and Green Waste, or any combination thereof which are permitted to be disposed of in a Class III landfill, and which are included in the definition of "Non-hazardous Solid Waste" set forth in the California Code of Regulations.

#### **1.51 Solid Waste Handling Services**

"Solid Waste Handling Services" means the Collection, transfer, transport, Recycling, processing, and Disposal of Solid Waste.

#### **1.52 Source Separated**

"Source Separated" means the segregation by the Waste Generator of individual components of Solid Waste, which otherwise would become Refuse or garbage (such as glass bottles, metal cans, newspapers, cardboard, plastic containers, etc.) into separate Container(s) for the purpose of allowing the Recycling of such materials.

#### **1.53 State**

"State" means the State of California.

#### **1.54 Transformation**

"Transformation" means incineration, pyrolysis, distillation, gasification, or biological conversion other than composting.

### **1.55 Transfer Station**

"Transfer Station" means a Facility that received Solid Waste from collection vehicles and transfers the material to larger vehicles for transport to landfills and other destinations. Transfer Stations may or may not also include MRFs, transferring residual Refuse (Refuse left after the sorting of Recyclable Materials) to landfills and Recyclable Materials, including Green Waste and/or Construction and Demolition debris, to processors, brokers or end-users.

### **1.56 Waste Generator**

"Waste Generator" means any Person as defined by the Public Resources Code, whose act or process produced Solid Waste as defined in the Public Resources Code, or whose act first causes Solid Waste to become subject to regulation.



## **ARTICLE 2**

### **GRANT AND ACCEPTANCE OF FRANCHISE**

#### **2.1 Grant and Acceptance of Franchise**

Subject to the terms and conditions of this Agreement (including but not limited to the exclusions set forth in Section 2.9 hereof) and applicable State laws, and to the rights of State, county and school district facilities to use a Solid Waste enterprise other than Contractor, City hereby grants to Contractor and Contractor hereby accepts from City, for the Term hereof, the exclusive franchise, right and privilege to provide Solid Waste Handling Services at all Residential and Commercial Premises within City (the "Franchise").

#### **2.2 Enforcement of Exclusivity**

Contractor shall be responsible for enforcing the exclusivity of this Agreement. City shall have the right to enforce the exclusivity provisions hereof if, in its absolute and sole discretion, it chooses to do so, but shall have no obligation to do so for the benefit of Contractor or otherwise. City additionally shall have the right, but not the obligation, to request that Contractor enforce the exclusivity provisions hereof. Contractor shall have an affirmative obligation to enforce such exclusivity provisions when requested to do so by City.

#### **2.3 Effective Date**

The "Effective Date" of this Agreement shall be July 1, 2017.

#### **2.4 Term of Agreement**

The term of this Agreement (the "Term") shall be ten (10) years and 6 months, commencing on July 1, 2017, and expiring December 31, 2027, subject to extension as provided herein. Notwithstanding the foregoing, the unexcused failure or refusal of Collector to perform any material term, covenant, obligation or condition contained in this Agreement shall give rise to the right, in favor of City, for earlier termination of this Agreement for cause in accordance with the procedures elsewhere contained herein.

## **2.5 Option to Extend Term**

City shall have the sole option, in its sole, unfettered, and absolute discretion, to extend the Term of this Agreement upon expiration of the initial Agreement Term up to twenty-four (24) months. The City may, upon ninety-day (90-day) advance written notice to the Contractor prior to the expiration of the Term of this Agreement, exercise this extension option. If City provides this extension notice, the Agreement will automatically renew for twenty-four (24) months, provided, however, that after the commencement of said extension period, the City may terminate the extension period upon one-hundred and eighty (180) day prior written notice to Contractor.

## **2.6 Representations and Warranties of Contractor**

Contractor hereby covenants, represents, and warrants the following to City for the purpose of inducing City to enter into this Agreement and to consummate the transaction contemplated hereby, all of which shall be true as of the date of this Agreement and as of the Effective Date:

- a) Contractor is duly organized and validly existing as a corporation under the laws of the State of California.
- b) No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this Agreement by Contractor, except said as have been duly obtained from its Board of Directors.
- c) Neither the execution of this Agreement nor the delivery by Contractor of services nor the performance by Contractor of its obligations hereunder: (1) conflicts with, violates or results in a breach of any applicable law; (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement (including, without limitation, the certificate of incorporation of Contractor) or instrument to which Contractor is a party or by which Contractor or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument; or (3) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of Contractor.

- d) There is no action, suit, or other proceeding as of the date of this Agreement, at law or in equity, or to the best of Contractor's knowledge, any investigation, before or by any court or governmental authority, pending or threatened against Contractor or which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the validity or enforceability of this Agreement or any such agreement or instrument entered into by Contractor in connection with the transactions contemplated hereby, or which could materially and adversely affect the ability of Contractor to perform its obligations hereunder or which would have a material adverse effect on the financial condition of Contractor.
- e) Contractor has no knowledge of any applicable law in effect as of the date of this Agreement that would prohibit the performance by Contractor of this Agreement and the transactions contemplated hereby.
- f) Contractor has made an independent investigation, examination, and research satisfactory to it, of the conditions and circumstances surrounding this Agreement and the work to be performed by it, and is satisfied that those conditions and circumstances will not impair its ability to perform the work and provide the Collection services required by this Agreement.
- g) The information supplied by Contractor in all submittals made in connection with negotiation and execution of this Agreement, including all materials in Exhibits of this Agreement, and all representations and warranties made by Contractor throughout this Agreement are true, accurate, correct and complete in all material respects on and as of the Effective Date of this Agreement.
- h) Contractor's representative, designated in Section 5.2.4, shall have authority in all daily operational matters related to this Agreement. City may rely upon action taken by such designated representative as action of Contractor unless the actions taken are not within the scope of this Agreement.
- i) The landfill(s) designated by the Contractor for Disposal is(are) properly permitted by the Regional Water Quality Control Board and CalRecycle, is classified as a Class 3 landfill (permitted to receive municipal Solid Waste), complies with all applicable laws, and is not on or being considered for inclusion on a state or federal Superfund list, or CalRecycle list of Solid Waste facilities failing to meet State minimum standards.

## **2.7 Conditions to Effectiveness of Agreement**

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement, and a condition of Contractor's continued right to the benefits conveyed herein:

- a) Accuracy of Representations. All representations and warranties made by Contractor and set forth in this Agreement shall be accurate, true and correct on and as of the Effective Date, and shall remain so during the Term hereof.
- b) Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Franchise to Contractor or the execution of this Agreement or seeking to restrain or enjoin its performance.
- c) Furnishing of Insurance and Bond or Letter of Credit. Contractor shall have furnished evidence of the insurance and bonds or letter of credit required by Article 9, and shall comply with all ongoing requirements relating thereto.
- d) Effectiveness of City Council Action. City's approval of this Agreement shall have become effective pursuant to California law prior to the Effective Date.
- e) Contractor shall have paid the contracting fee to City, as provided in Section 3.1.

## **2.8 Delegation of Authority**

The administration of this Agreement by City shall be under the supervision and direction of the Director of Public Works' office and the actions specified in this Agreement, unless otherwise stated, shall be taken by the Director of Public Works, or his or her designee.

## **2.9 Limitations to Scope**

Notwithstanding any provision to the contrary contained herein, the exclusive franchise, right and privilege to provide Solid Waste Handling Services at Premises within City granted to Contractor by this Agreement specifically excludes the following services, which services may be provided by Persons other than Contractor and which may be the subject of other permits, licenses, franchises or agreements issued or entered by City:

- a) The sale or donation pursuant to a written contract of source-separated Recyclable Material by the Waste Generator to any Person or entity other than Contractor; provided, however, to the extent permitted by law, if the Generator is required to pay monetary or non-monetary consideration for the Collection, transportation, transfer, or processing of Recyclable Material, the fact that the Generator receives a reduction or discount in price (or in other terms of the consideration the Generator is required to pay) shall not be considered a sale or donation;
- b) Solid Waste, including Recyclable Materials and Green Waste, which is removed from any Premises by the Waste Generator, and which is transported personally by such Generator (or by his or her full-time employees) to a processing or Disposal Facility in a manner consistent with all applicable laws and regulations;
- c) Green Waste removed from a Premises by a gardening, landscaping, or tree trimming contractor, utilizing its own equipment, as an incidental part of a total service offered by that contractor rather than as a hauling service;
- d) The Collection, transfer, transport, Recycling, processing, and disposal of animal waste and remains from slaughterhouse or butcher shops for use as tallow;
- e) The Collection, transfer, transport, Recycling, processing, and disposal of by-products of sewage treatment, including sludge, sludge ash, grit and screenings;
- f) The Collection, transfer, transport, Recycling, processing, and disposal of Hazardous Substances, Hazardous Waste, and radioactive waste regardless of its source;
- g) The Collection, transfer, transport, Recycling, processing, and Disposal of Solid Waste by City through City officers or employees in the normal course of their employment; and,
- h) Solid Waste Handling Services for governmental agencies other than City, which may have facilities in City, but over which City has no jurisdiction in connection with the regulation of Solid Waste.

The exclusive franchise, right and privilege to provide Solid Waste Handling Services within City granted to Contractor by this Agreement shall be interpreted to be consistent with all applicable state and federal laws, now in effect and adopted during the term of this Agreement, and the scope of this Agreement shall be limited by all applicable current and

developing laws and regulations. In the event that future interpretations of current law, future enactments or developing legal trends limit the ability of City to lawfully grant Contractor the scope of services as specifically set forth herein, Contractor agrees that the scope of this Agreement will be limited to those services and materials which may be lawfully provided, and that City shall not be responsible for any lost profits claimed by Contractor as a result thereof.

## **2.10 City's Right to Direct Changes**

### **2.10.1 General**

City may direct Contractor to perform additional Solid Waste Collection and diversion services (including new diversion programs, etc.) or modify the manner in which it performs existing services or Bills for services. Pilot programs and innovative services which may entail new Collection methods, and different kinds of services and/or new requirements for Waste Generators are included among the kinds of changes which City may direct. Contractor shall be entitled to an adjustment in its Contractor Compensation for providing such additional or modified services, including a profit factor equal to ten percent (10%) of the incremental cost of such additional or modified services. City may utilize cost components provided with the Contractor's proposed rates in calculating equitable rate adjustments. If the City Manager and Contractor cannot agree upon the amount of a rate adjustment authorized pursuant to this section, the City Council shall make the final determination and its decision shall be final and binding.

### **2.10.2 New Diversion Programs**

Contractor shall present, within thirty (30) days of a written request to do so by City, a proposal to provide additional or expanded diversion services. The proposal shall contain a complete description of the following:

- Collection methodology to be employed (equipment, manpower, etc.).
- Equipment to be utilized (vehicle number, types, capacity, age, etc.).
- Labor requirements (number of employees by classification).
- Type(s) of Containers to be utilized.
- Type(s) of material to be Collected.

- Provision for program publicity/education/marketing.
- Three-year projection of the financial results of the program's operations in an operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions.
- The added cost for providing such additional or expanded diversion services.

### **2.11 Ownership of Solid Waste**

City and Contractor understand and agree that it is Contractor, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Contractor on its Collection methods, nor supervise the Collection process; nor do the Parties intend to place title to Solid Waste Collected by Contractor in City. Rather, the Parties intend that whatever, if any, title in and to the Solid Waste that is Collected by Contractor which otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Contractor; and further that if Contractor gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. Subject to the provisions of this Agreement, and unless City exercises its rights to direct the location for Disposal and processing of Solid Waste, Contractor shall have the right to retain, Recycle, process, dispose of, and otherwise use Solid Waste Collected pursuant to the terms hereof in any lawful fashion or for any lawful purpose; and, further, shall have the right to retain any benefit resulting from its right to retain, Recycle, process, dispose of, or reuse the Solid Waste which it Collects.

### **2.12 Contractor Status**

Contractor represents and warrants that it is duly organized, validly existing and in good standing under applicable laws. It is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

### **2.13 Contractor Authorization**

Contractor represents and warrants that it has the authority to enter into and perform its obligations under this Agreement. The Board of Directors of Contractor (or the shareholders, if necessary) has taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution of this Agreement. The Persons signing this Agreement on behalf of Contractor have authority to do so. Contractor

shall authorize one employee for the City as a single point of contact for issues arising under this Agreement, and Contractor acknowledges and agrees that City may expect and assume that this employee's actions are taken on behalf of and with the full approval of the Contractor.

#### **2.14 Permits and Licenses**

Contractor shall acquire and maintain all necessary permits and licenses for the Collecting, transporting, processing, and storing of Solid Waste and Recyclables, disposing of Solid Waste, and the Recycling of Recyclables as required under this Agreement. Failure to maintain all required permits shall be deemed a material breach of contract for which City may terminate this Agreement as provided in Section 11.1.



## **ARTICLE 3**

### **FEES PAID TO THE CITY AND BOND EXPENSES**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the exclusive franchise, right and privilege to provide Solid Waste Handling Services as specified herein, Contractor shall provide the following:

#### **3.1 Contracting Fee**

Contractor shall pay to City a Contracting Fee in a one-time lump sum payment of \$1,075,000 within seven (7) business days of execution of this Agreement for the right to enter into the exclusive franchise and to reimburse the City for costs it incurred in connection with entering this Agreement.

#### **3.2 Street Sweeping Reimbursement Fee**

Contractor shall pay to City \$30,750 per month for the six months from July 2017 to December 2017 as reimbursement for contract street sweeping services. Payment shall be made no later than the seventh (7<sup>th</sup>) business day of the following calendar month. Contractor shall continue to accept the City's street sweeping debris from Athens Services from July 1, 2017 through December 30, 2017. Contractor shall commence on January 2, 2018 street sweeping services as a direct service or through a contractor for this Agreement.

#### **3.3 Franchise Fee**

Throughout the Term of this Agreement Contractor shall pay to City a Franchise Fee in an amount equal to five (5%) percent of the Gross Receipts received by Contractor for Residential services and twenty-one 21% percent of the Gross Receipts received by Contractor for Commercial and all other services provided in City pursuant to the terms of this Agreement, and more fully described in Section 3.4

For purposes of determining with Franchise Fee under this section, "Residential Services" are the services for which rate have been identified under "Residential Services" in the approved rate schedule, and "commercial and all other services" include Bin and Roll-off Box services whether the services are provided to a Commercial or Residential Customer.

### **3.4 Time and Method of Franchise Fee Payment**

On or before the thirtieth (30th) day following the end of each calendar month during the Term of this Agreement, Contractor shall remit any Franchise Fees due to City for Gross Receipts received by Contractor that calendar month. If the Franchise Fee is not paid on or before the thirtieth (30th) day following the end of the calendar month, Contractor shall pay to City a penalty in an amount equal to ten percent (10%) of the amount owing for that month, plus interest at a rate of one and one-half (1.5%) per month.

Each remittance to City shall be accompanied by a statement detailing Gross Receipts received from Customer by Customer category (Commercial Bin, Roll-Off, etc.) by Contractor for the period covered from all operations conducted or permitted, pursuant to this Agreement. In addition, Contractor shall maintain copies of all Billing and Collection records for five (5) years, following the date of Billing, for inspection and verification by City at any reasonable time upon request.

### **3.5 Future Fees**

In the event that City implements a new fee, Contractor shall be entitled to a rate adjustment in an amount sufficient to recover the fee from Customers. City may set deadlines and late fees, and additional fees would be subject to audit, as are the current fees under Section 8.2.7.

## **ARTICLE 4**

### **DIRECT SERVICES**

#### **4.1 Refuse**

##### **4.1.1 General**

The work to be done by Contractor pursuant to this Agreement shall include, but not be limited to, the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others, as may be required, whether enumerated elsewhere in the Agreement or not.

The work to be done by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that all Customers are provided reliable, courteous and high-quality Solid Waste Handling Services at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner provided in this section, whether such other aspects are enumerated elsewhere in the Agreement or not.

##### **4.1.2 Single Family Refuse Collection**

Contractor shall provide all Customers at Single Family Dwellings and Multi-Family Dwellings without Bin Service, with 96-gallons of Refuse capacity in black Carts ("Refuse Cart(s)"), and shall Collect all Refuse placed therein for Collection not less than once per week.

Customers that regularly require more than 96-gallons of Refuse Cart capacity may request additional Carts for an additional charge per Cart per month in accordance with the approved rate schedule.

##### **4.1.3 Refuse Cart Overage**

Customers may periodically generate more Refuse than will fit in the Refuse Cart(s). Contractor shall Collect all additional Refuse placed out for Collection in the Customer's own Containers (barrels, bags, boxes) at no additional charge during the period beginning December 26 through the end of the holiday tree Collection period (see Section 4.3.2). This

service is limited to Refuse that could otherwise be placed in the Refuse Cart(s), and not Bulky Items as defined in Section 1.6. Outside of the holiday tree Collection period, Customer will treat Cart overages as Special Pickups and will call Contractor to schedule a pickup. Contractor may request approval from City to require Customers that habitually have extra Refuse to subscribe for additional capacity.

#### **4.1.4 Multi-Family and Commercial Refuse Collection**

Contractor shall provide Bin Service to Multi-Family and Commercial Customers. Contractor shall Collect and remove all Refuse that is placed in Bins from the property of Customers receiving Bin Service, at least once per week and more frequently if required to handle the waste generated at the Premises where the Bins are located. City shall make final determination as to the number and size of Containers, and frequency of Collection to be provided to Customers. Special consideration shall be given when determining the pickup areas to ensure that the flow of traffic is not impeded.

#### **4.1.5 Bin Enclosure Cleanout**

Contractor is responsible for cleaning out Customers' overflowing Bins and enclosures within twenty-four (24) hours of notification by City at no additional cost. Contractor may follow the procedures in Section 4.1.6 to address habitual offenders.

#### **4.1.6 Overflowing Bins**

Customers that regularly produce more Refuse than their current level of service can accommodate may have their service level increased in accordance with the following procedure:

- A. First Overflowing Bin Occurrence in a Three-Month Period
  - Dump
  - Leave warning at business and mail warning to business billing address
- B. Second Overflowing Bin Occurrence in a Three-Month Period
  - Dump
  - Leave warning at business and mail warning to business billing address
  - Charge Extra Bin Pickup Fee
- C. Third Overflowing Bin Occurrence in a Three-Month Period
  - Dump
  - Leave warning at business and mail warning to business billing address
  - Charge Extra Bin Pickup Fee

- Request that Customer increase service level
- If Customer will not increase service level, petition City to require Customer to increase service level

#### **4.1.7 Roll-off Box Service**

Contractor shall provide permanent and temporary Roll-off Box Collection service upon request in accordance with the approved rate schedule.

#### **4.1.8 Temporary Bin Service**

Contractor shall provide temporary Bin Service to Customers upon request in accordance with the approved rate schedule.

#### **4.1.9 Locking Bins**

Contractor shall provide locking Bin Service to Customers that request such service in accordance with the approved rate schedule.

#### **4.1.10 On-Call Special Pickup**

##### **4.1.10.1 Single Family Special Pickup**

Contractor shall provide "Special Pickup" service to all Customers receiving Cart service per Section 4.1.2 at no additional charge. Contractor may instruct Customers to provide Contractor with a minimum of twenty-four (24) hours' notice of the need for a Special Pickup, which shall take place on the Customer's regular Collection day. Items to be Collected shall be left beside Carts positioned for Collection. Contractor shall Collect the following as a Special Pickup:

- A. All Bulky Items as defined in Section 1.6.
- B. Electronic Waste or "E-Waste" as defined in Section 1.25.
- C. Refuse Cart Overages – Refuse that will not fit in Cart, per Section 4.1.3.
- D. Green Waste Cart Overages – Green Waste that will not fit in Cart, Per Section 4.4.1
- E. Late Holiday Tree Collection – Holiday trees to be Collected after the second week in January.

#### **4.1.10.2 Commercial Special Pickup**

Contractor shall provide Special Pickup service for Commercial Customers (other than Multi-Family Customers) and may charge a fee for service. Items to be Collected, and corresponding costs, include:

- A. All Bulky Items as defined in Section 1.6. See approved rate schedule for fee
- B. Electronic Waste or "E-Waste" as defined in Section 1.23. See approved rate schedule for fee.
- C. Other special items, such as universal wastes. At rates to be negotiated between Contractor and Customer on a case-by-case basis.

#### **4.1.10.3 Special Pickup Item Restrictions**

The following applies to items Collected under this Section 4.1.10:

- No single item that cannot be handled by two workers will be accepted.
- The following items will not be picked up: Hazardous Substances, Hazardous Waste, including waste oil or anti-freeze; concrete and dirt. For the purposes of this section, televisions, monitors and other items referred to as "e-waste" not considered hazardous and will be Collected by and disposed of in accordance with this section as well as Sections 4.1.11 and 4.1.12 by Contractor as described in this section.
- Contractor shall record by class and weight (in tons) the Solid Waste Collected under this Section 4.1.10. Contractor shall record the kinds and weights (in tons) of Solid Waste diverted, if any, from landfilling through Recycling, reuse, Transformation or other means of diversion.

#### **4.1.11 Special Pickup Item Diversion**

Bulky Items and other items Collected by Contractor in accordance with Section 4.1.10, or otherwise Collected under this Agreement, may not be landfilled or disposed of until the following hierarchy of diversion efforts has been followed by Contractor:

- 1) Reuse as is
- 2) Disassemble for reuse or Recycling

- 3) Recycle
- 4) Disposal

This hierarchy is intended to preclude the use of front or rear loading packer vehicles for Special Pickup items unless the compaction mechanism is not used to compact the items, unless they have been designated for Disposal.

#### **4.1.12 Disposal of Electronic and Other Special Wastes**

Contractor shall divert waste requiring special handling, such as electronic waste, or "e-waste," or other universal wastes Collected in accordance with Sections 4.1.10 or 4.1.11, or by other means under this Agreement, by taking these goods to a properly permitted Facility, and not by landfilling.

#### **4.1.13 Valet Cart Collection Service**

If requested, Contractor will retrieve all of Residential Customers' Carts from Customers' yards on the residential premises for Collection and return the Carts after Collection. Customers requesting this service shall be charged an additional charge in accordance with the approved rate schedule.

#### **4.1.14 Roll-Out Service**

In cases where topography, street conditions, low hanging wire, sloped egresses, or limited street access for police, fire, safety vehicles prevent a regular Collection vehicle access for servicing Containers, Customer may put container out for access or subscribe to Roll-Out Service. Contractor shall provide Roll-Out Services as requested by the customer for an additional charge per Container per month in accordance with the approve rate schedule. Roll-Out Services shall include, but not limited to moving manually or by specialized "scout" truck the Containers from the storage location for Collection and returning the Containers to the storage location. Accounts subscribing to Roll-Out Service are subject to City's prior written approval.

#### **4.1.15 Universal Waste**

Residential Customers may drop off household batteries, fluorescent bulbs and other universal wastes as permitted by Contractor at Contractor's facility in Paramount, California at no additional charge. Additionally, Contractor shall provide collection of dry-cell batteries

from Residential Customers as an on-call pick-up upon request. Each on-call dry-cell pick-up request scheduled at least one (1) business day prior to the regularly scheduled Collection day shall be responded to by Contractor on the next regularly scheduled Collection day. Customers will be instructed to place household batteries in clear sealable plastic bags and place them on top of the Recycling Cart on Customer's normal collection day.

#### **4.1.16 Commercial/Multi-Family Organics Program**

Contractor will introduce an organic waste recycling program in response to State and CalRecycle mandatory Organics Recycling requirement under Public Resource Code 42649.8-42649.86 (AB 1826). Exhibit 5 provides the detail of the program.

## **4.2 Recycling**

### **4.2.1 Single Family Recycling Collection**

Contractor shall provide all Customers receiving Cart Refuse Collection with 96-gallons of Recycling capacity in blue Carts for Collection of Recyclable Materials ("Recycling Cart(s)"), and shall Collect all Recyclable Materials placed therein for Collection not less than once per week. Contractor shall Collect Recyclable Material placed in Recycling Carts for Collection from each Customer on the same day as Customers' Refuse Cart is Collected.

Contractor shall have a Recycling program whereby it, at a minimum, Collects and processes for Recycling the following materials:

- Paper – all types (including computer and ledger paper, junk mail, brochures, magazines, newspaper, wrapping paper, phone books, etc.)
- Plastic Containers – types #1 - #7 (including cartons and bottles)
- Rigid Plastic – all types (including plastic toys, buckets, laundry bottles, etc.)
- Glass Bottles
- Bi-metal Cans
- Aluminum Cans
- Aerosol Cans (Empty Only)
- Aluminum and Tin Cans
- Aluminum Foil
- Cardboard
- Cereal Boxes
- Drink Boxes



- Egg Cartons
- Foam Cups and Plates (Clean)
- Glass Bottles and Jars (Lids Removed)
- Juice Cartons
- Metal Hangers

Contractor will update, and provide/distribute public education materials to reflect additions to the list of acceptable Recyclable Materials as markets become available for additional materials.

Customers that regularly fill their Recycling Cart(s) may request up to 96-gallons of additional Cart capacity at no additional charge. Contractor may charge a monthly rate per Cart, in accordance with the approved rate schedule, for Recycling Carts beyond the equivalent of two 96-gallon Recycling Carts per Customer.

#### **4.2.2 Bin Customer Recyclables Collection**

Contractor shall provide Source separated Recyclable Materials Collection services to Bin Customers at rates not to exceed rates in the approved rate schedule.

#### **4.2.3 Warning Notice**

Contractor shall place a red tag or other warning notice approved by the City on all Residential and Commercial Refuse, Recyclable Material or Green Waste loads that are contaminated, indicating to the Customer why the load was not Collected and, if applicable, diverted, and providing Contractor's phone number. For Bin Customers, Contractor shall also mail a copy of the warning to the Customer's Billing address. Contractor shall notify City on a monthly basis of any warning notices issued pursuant to this section, and shall provide copies of such warnings to City upon request.

With prior written City authorization, Contractor may remove Recycling and Green Waste Carts from habitual contaminators that have received a total of three warnings on either or both Containers in any six-month period. Recycling and Green Waste Carts may be returned to Customer after six months upon direction of the City, or if there is a change of occupancy.

#### **4.2.4 Mixed Waste Processing of Bin Refuse**

Contractor will send for processing a minimum of 65% by weight of all Refuse Contractor Collects from Bins, (including Source Separated Recyclables and Construction and Demolition Debris Collected in Bins). Contractor will guarantee a 30% recovery from this processed waste, whereby at least 30% of the Refuse sent for processing is diverted from landfilling and Recycled.

#### **4.2.5 Mixed Waste Processing of Roll-Off Tonnage**

Contractor will send for processing 65% of Roll-Off Box loads (including Green Waste loads and Construction and Demolition Debris) Collected by Contractor. Contractor will guarantee a 50% average recovery from this processed waste.

#### **4.2.6 AB 341-Mandatory Commercial and Multi-Family Recycling**

Contractor will maintain a listing of commercial and multi-family customers that are subject the requirements AB 341. The number of accounts that are subject to, as well as the number of accounts complying with the requirement will be reported to the City on a monthly basis. Additionally, Contractor will send out twice a year educational letters to those customers not complying.

#### **4.2.7 Marketing and Sale of Recyclable Materials**

Contractor shall be responsible for marketing and sale of all Recyclable Materials Collected pursuant to this Agreement. Contractor may retain revenue from the sale of Recyclable Materials.

#### **4.2.8 Transformation**

Contractor shall send 2,500 tons per calendar year to a Transformation Facility. If the Contractor does not send this full amount each year, the Contractor shall pay liquidated damages for every ton Contractor falls short of this requirement. See Section 11.3. In the event that SERRF cannot or will not accept Cerritos tonnage, CalMet may request the City to revisit the transformation requirement and related liquidated damages. City may, in its sole discretion, adjust these requirements, and may require supporting records to demonstrate that Contractor made adequate planning and attempts to deliver waste and was rejected.

#### **4.2.9 Minimum Recycling Requirements**

Contractor shall recycle or divert from landfilling sufficient waste to ensure that the City meets current CalRecycle diversion requirements... If the State increases minimum Recycling levels, or the City increases its Recycling goal, Contractor may request a rate adjustment for the additional Recycling services that may be required, and the requirements of this section, including liquidated damages, will apply using the higher diversion rate.

#### **4.2.10 Construction and Demolition Debris Diversion**

All Construction and Demolition Debris ("C&D") loads serviced by the Contractor shall be delivered to Recycling Facilities for processing, or diverted to qualified inert facilities for Construction and Demolition Debris where quantities would not be counted as disposal for AB 939 compliance purposes. No such uncontaminated loads are permitted to be delivered to a landfill unless Company obtains written approval from City permitting Disposal of specific loads. Contractor shall divert from landfill disposal a percentage of material that meets or exceeds the CalGreen C&D diversion requirement, which is set at 65% as of the date of this agreement.

### **4.3 Green Waste Program**

#### **4.3.1 Single Family Green Waste Collection**

Contractor shall provide all Customers receiving Cart Refuse Collection with 96-gallons of Green Waste capacity in green Carts for Collection of Green Waste ("Green Waste Cart(s)"). Contractor shall Collect all Green Waste placed in Green Waste Carts and put out for Collection by Customers not less than once per week on the same day as Refuse Collection. Contractor shall have a Green Waste Recycling program whereby it, at a minimum, Collects and diverts from landfilling the types of Green Waste defined in Section 1.26.

Customers that regularly fill their Green Waste Cart(s) may request up to 96-gallons of additional Cart capacity at no additional charge. Contractor may charge a monthly rate per Cart, in accordance with the approved rate schedule, for Green Waste Carts beyond the equivalent of two 96-gallon Green Waste Carts per Customer. Customers that occasionally have more Green Waste than will fit in their Carts shall call for a Special Pickup of the overage as a Bulky Item per Sections 1.6 and 4.1.10.1.

#### **4.3.2 Holiday Tree Collection Program**

Contractor shall operate an annual holiday tree Collection program from December 26<sup>th</sup> through the first Friday after January 12th. During this period all holiday trees placed out for Collection by Single Family and Multi-Family Customers shall be Collected by Contractor. After this period, trees will be Collected as a Special Pickup under Section 4.1.10. Contractor will divert all holiday trees from landfilling.

#### **4.3.3 End Uses for Green Waste**

Contractor shall divert Green Waste materials Collected through weekly Cart and bundle Collection, holiday tree Collection, Roll-off Box Collection and mixed waste processing from Disposal. Contractor must provide end uses for Green Waste that maximize diversion credits for City according to regulations established by the CalRecycle. Green Waste may be used as ADC only to the extent that the City will get full diversion credit for its use. Contractor is responsible for monitoring how the Green Waste will be diverted at selected facilities and for selecting alternative facilities if necessary to ensure full diversion credit. Failure to do so places the Contractor in default, and City has the option, but not obligation, to direct Contractor where to deliver the material.

### **4.4 City Services**

#### **4.4.1 City Facilities Collection**

Contractor shall Collect and, in accordance with Sections 4.2 and 4.3, process for Recycling all Refuse, Recyclable Material, and Green Waste put in Containers for Collection at Premises owned and/or operated by the City now and in the future at no charge. Service levels and number of facilities serviced may increase during the Term of this Agreement without any additional compensation paid to the Contractor. Such Premises include, but are not limited to, City Hall, City offices, parks, City yard, fire and police stations and street maintenance operations. Solid Waste Collected from City yard may include Refuse Collected off-site, such as from street litter Containers, abandoned items Collected by City crews, and other City activities. Collections shall be scheduled at a time mutually agreed upon by Contractor and City.

#### **4.4.2 City Sponsored Events**

Contractor shall provide Solid Waste and Recycling Collection and Disposal/processing service for all City-sponsored events at no additional charge. This shall include providing

Containers (Bins, Roll-off Boxes, Recycling Containers and cardboard waste boxes with liners) to Collect and dispose of or process all Solid Waste and Recyclable Materials.

#### **4.4.3 Emergency Collection and Disposal Service**

Contractor will assist City at the City's request with emergency Collection and Disposal service (in the event of major disaster, such as an earthquake, storm, riot or civil disturbance), or as otherwise determined necessary by the City, by providing Collection equipment and drivers normally assigned to City. Contractor may charge City for actual Disposal costs plus service rates per the approved rate schedule.

#### **4.4.4 Bus Stop Container Service**

Contractor will collect solid waste from bus stop containers located throughout the City. The number of bus stop containers that will be serviced shall be 163 cans serviced 1x week and 20 cans serviced 2x week. Changes to the number of containers or frequency of collection shall be agreed upon mutual consent between Contractor and City's Public Works Director. Contractor shall transport and deliver the collected solid waste to the disposal facility.

### **4.5 Operations**

#### **4.5.1 Schedules**

To preserve peace and quiet, Solid Waste shall only be Collected within 500 feet of Residential Premises between 7:00 a.m. and 7:00 p.m., and elsewhere between 6:00 a.m. to 7:00 p.m. Residential Cart Collection shall be scheduled Monday through Friday, with Saturday Collection permitted if necessary following a holiday. If the regularly scheduled Collection day falls on New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, or Christmas Day, Collection days for the remainder of that week shall all be postponed one Collection day.

Contractor shall review its operations plan outlining the Collection routes, intervals of Collection and Collection times for all materials Collected under this Agreement with City upon thirty (30) days written notice requesting said review. Contractor shall submit a copy of its Commercial and Residential schedule and route map within seven (7) business days if requested by City. If the plan is determined to be inadequate by City, Contractor shall revise it incorporating any changes necessary to make it satisfactory to City within thirty

(30) calendar days. No change in schedules and routing shall be implemented for fifteen (15) calendar days after Contractor receives approval from City and notifies Customers.

#### **4.5.2 Missed Pickups**

When notified of a missed pickup prior to 12:00 p.m., Contractor shall Collect the Refuse, Recyclable Materials, and/or Green Waste that was not Collected the same day. If notified after 12:00 p.m., Collection must take place no later than 12:00 p.m. the next business day.

#### **4.5.3 Vehicles**

**A. General.** Contractor is responsible for providing all vehicles that may be required for the Collection of Solid Waste that are sufficient in number and capacity to efficiently perform the work required by this Agreement in strict accordance with its terms. Contractor is expressly obligated to provide such Collection Vehicles and routes as are required to meet the service standards set forth herein. Contractor shall have available on Collection days sufficient back-up vehicles for each type of Collection Vehicle used to respond to complaints and emergencies.

**B. Specifications.** All Collection Vehicles used in performance of this Agreement shall use non-diesel alternative fuel such as liquefied natural gas, compressed natural gas or propane.. Such vehicles must be registered with the California Department of Motor Vehicles and shall have water-tight bodies designed to prevent leakage, spillage or overflow. At all times during the term of this Agreement, Contractor's Collection vehicles shall comply with South Coast Air Quality Management District Requirements and the California Air Resource Board's emission standards as they may be approved for Refuse removal vehicles, as well as other Federal, State and local laws and regulations that may be enacted during the term of this Agreement.

**C. Vehicle Identification and Labeling.** Each Collection vehicle shall be marked with Contractor's name, toll free phone number, and a vehicle identification number designed by Contractor for each Collection Vehicle which shall be prominently displayed on all such Vehicles. City must approve truck labeling, and may place billboards with public notices on vehicles at no additional charge. All equipment of Contractor used to provide the services set forth in this Agreement shall be subject to inspection by City on an annual basis.

**D. Cleaning and Maintenance**

- 1) Contractor shall maintain all properties, vehicles, facilities, and equipment used in providing service under this Agreement in a good, safe, neat, clean and operable condition at all times.
- 2) Collection Vehicles shall be painted, thoroughly washed, and thoroughly steam cleaned on a regular basis so as to present a clean appearance. City may inspect vehicles at any time to determine compliance with this Agreement. Contractor shall also make all Collection Vehicles available to the Los Angeles County Public Health Department for inspection, at any frequency it requests. Contractor agrees to replace or repair to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, leaking, or in unsatisfactory operating condition.
- 3) Contractor shall repaint any or all Collection Vehicles within thirty (30) days' notice from City, if City determines that their appearance warrants painting. Vehicle color must be approved by City.
- 4) Contractor shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly. Contractor shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Contractor shall keep accurate records of all Collection Vehicle maintenance, recorded according to date and shall make such records available to City upon request.
- 5) Contractor shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Contractor shall maintain accurate records of repair, which shall include the date, nature of repair and the verification by signature of a maintenance supervisor that the repair has been properly performed.
- 6) Contractor shall clean up any leaks or spills from its vehicles per the National Pollutant Discharge Elimination System (NPDES) permit in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with.



- 7) Upon request, Contractor shall furnish City a written inventory of all equipment, including Collection Vehicles, used in providing service pursuant to this Agreement. This inventory shall list all equipment by manufacturer, year of production, ID number, date of acquisition, type, capacity, and whether the vehicle is a spare.
- 8) Within six months of the start of this Agreement, CalMet will complete an assessment of its refuse collection vehicles to identify the need for vehicle replacement and to establish a phased-in replacement schedule.

**E. Operation.** Vehicles shall be operated in compliance with the California Vehicle Code, and all applicable safety and local ordinances. Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local weight restrictions on vehicles.

Contractor's equipment shall comply with US EPA noise emission regulations, currently codified at 40 CFR Part 205 and other applicable noise control regulations, and such noise control features shall be incorporated throughout the entirety of all Collection Vehicle. Noise levels of equipment used for Collection shall comply with City ordinance. Contractor shall store all equipment in safe and secure locations in accordance with City's applicable zoning regulations.

Contractor shall be responsible for any damage resulting from or directly attributable to any of its operations, and which it causes to: City's driving surfaces, whether or not paved; associated curbs, gutters and traffic control devices; and all other public and private improvements.

**F. City Inspection Per Code.** City may cause any vehicle used in performance of this Agreement to be inspected and tested at any commercially reasonable time and in such manner as may be appropriate to determine that the vehicle is being maintained in compliance with the provisions of the State Vehicle Code, including, but not limited to, California Vehicle Code Sections 27000(b), 23114, 23115, 42030, 42032, and all Vehicle Code Sections regarding smog equipment requirements. City may direct the removal of any vehicle from service if that vehicle is found to be in nonconformance with applicable codes. No vehicle directed to be removed from service shall be returned to service until it conforms with, and its return to service has been approved by City.

**G. Vehicle Inspections.** Upon City request, Contractor shall submit the Safety Compliance Report/Terminal Record Update from its Biennial Inspection of Terminal, or BIT.



If Contractor receives a terminal rating below satisfactory, Contractor shall notify the City, and Contractor is in violation of the Agreement. Contractor has the time allowed by the Department of California Highway Patrol ("CHP") to cure violations and bring the terminal rating up to satisfactory. If the CHP does not adjust the rating to satisfactory or better within six (6) months, then the Contractor shall be considered in default of the contract and the City may terminate the Agreement.

**H. Correction of Defects.** Following any inspection, the Director of Public Works shall have the right to cause Contractor, at its sole cost and expense, to recondition or replace any vehicle or equipment found to be unsafe, unsanitary or unsightly. The Director of Public Works' determination may be appealed to the City Manager, whose decision shall be final.

#### **4.5.4 Containers**

Contractor will provide Containers to be used under this Agreement.

##### **4.5.4.1 Cart Size Selection**

Contractor will provide each Residential Customer with the option of receiving 96, 64 or 32-gallon Refuse, Recycling and Green Waste Carts. Carts may be selected in any combination of one, two or three Carts, up to approximately 96-gallons of capacity for each waste stream, Refuse, Recycling and Green Waste. . New Customers may change cart sizes once during the first six months following move-in at no additional charge. Contractor may charge for Cart size exchanges after six months in accordance with the approved rate schedule. Multiple Cart exchanges, including Refuse, Recycling and Green Waste Carts, performed on one trip shall be considered one exchange.

##### **4.5.4.2 Carts**

###### **A. Cart Design Requirements**

All Carts provided by Contractor utilized in the performance of this Agreement shall be manufactured by injection or rotational molding and meet the Cart design and performance requirements as specified below. All Carts selected shall be subject to City's approval. Carts must meet color, size, uniformity and quality requirements of the City. The City will not permit Carts with inconsistent colors or in poor condition to be used in the City at any time during the term of this Agreement, and may require Contractor to replace such Carts.

## **B. Capacity**

The references in Sections 4.1, 4.2 and 4.3 to Cart sizes of 96, 64 and 32-gallons may be approximate. The Cart size may fall within the following range:

- 30 – 35 gallons
- 60 – 70 gallons
- 90 – 101 gallons

The selected sizes must be consistent throughout the City for a uniform appearance.

## **C. Cart Color and Appearance**

The Refuse, Recycling and Green Waste Carts will be differentiated by color. The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Color must be uniform within each Container. Refuse Carts will be black. Recycling Carts will be blue. Green Waste Carts will be green. Cart colors shall be consistent throughout City.

## **D. Cart Labeling and Hot Stamping**

Labels used on Carts shall be placed on the inside of the Cart lid, and hot stamps shall be on the top of the lid and/or on the body of the Cart. Design for both the labels and the hot stamps must be approved by City prior to ordering labels or Carts. City shall approve what information is included on the label and in the hot stamp, as well as approve design and quality. Labels shall be replaced when worn. Cart labels and hot stamps will include specific instruction on what materials should and should not be placed in each Cart. Carts shall include the telephone number to call for Special Pickups (see Section 4.1.10).

### **4.5.4.3 Cart Maintenance and Replacement Responsibilities**

Contractor shall be responsible for graffiti removal within one (1) business day and Cart repair and maintenance, and replacing lost, stolen or damaged Carts within two (2) business days at no additional charge to the Customer or to City, unless Contractor can demonstrate to the Director of Public Works beyond a reasonable doubt that the damage or loss was due exclusively the Customer's intentional or negligent behavior. Director of Public Works shall make the final determination. All repairs must restore the Cart to its full

functionality. Unsightly/worn-out Carts shall be replaced by Contractor upon Customer request.

#### **4.5.4.4 Bins**

**A. Maintenance.** Contractor shall provide Customers with Bins required during the term of this Agreement. The size of Contractor-provided Bins shall be determined by mutual agreement of Owner and Contractor, and shall be subject to City approval. Contractor shall maintain Containers and Bins in a clean, sound condition free from putrescible residue. All Containers and Bins in use shall be constructed of heavy metal, or other suitable, durable material, and shall be watertight and well painted. Wheels, forklift slots, and other apparatuses, which were designed for movement, loading, or unloading of the Containers and Bins shall be maintained in good repair. Contractor shall replace leaking or otherwise damaged Containers and Bins within two (2) business days of notification by driver, Customer or City. Contractor may charge a bin maintenance fee if Contractor can demonstrate beyond a reasonable doubt that the damage or loss was due exclusively the Customer's intentional or negligent behavior. Bin Maintenance fee will be subject to the City's prior approval on a case by case basis. If graffiti cannot be removed, Contractor shall replace the Container or Bin, at Contractor's sole cost and expense.

Contractor shall remove graffiti from any Container within one business day of request by City or Customer. Contractor is required to proactively look for graffiti when Collecting Bins, with all graffiti removed from Containers no later than one business day after any Collection without notification by driver, Customer or City.

**B. Bin Identification and Color.** Each Bin placed in City by Contractor shall have the name of Contractor and phone number in letters not to exceed three (3) inches high on the exterior of the Bin so as to be visible when the Bin is placed for use. Bins shall be labeled to include instruction on what materials should and should not be placed in each Bin. Contractor shall repaint Bins upon City's request. All Refuse Bins shall be painted green. All commingled Recycling Bins shall be painted white.

#### **4.5.4.5 Roll-off Boxes**

Contractor shall provide sufficient Roll-off Boxes to meet Customer demand throughout the Term of the Agreement, and will keep all Roll-off Boxes clean, free from graffiti, equipped with reflectors, and with the name and phone number of Contractor in letters not to exceed three (3) inches high on the exterior of the Roll-off Box so as to be visible when the Roll-off

Box is placed for use. Contractor shall properly cover all open Roll-off Boxes during transport as required by the State Vehicle Code.

#### **4.5.5 Litter Abatement**

**A. Minimization of Spills.** Contractor shall use due care to prevent Solid Waste or fluids from leaking, being spilled and/or scattered during the Collection or transportation process. If any Solid Waste or fluids leak or spill during Collection, Contractor shall promptly clean up all such materials. Each Collection Vehicle shall carry a broom, shovel, absorbent, and containment materials at all times for this purpose.

Contractor shall not transfer loads from one vehicle to another on any public street, unless it is necessary to do so because of mechanical failure, accidental damage to a vehicle without prior written approval by City.

**B. Clean Up.** During the Collection or transportation process, Contractor shall clean up all litter spilled during Collection or that had overflowed from the Bin. In the event of a spill of materials (vehicle fluids, Green Waste leachate, etc.), Contractor shall provide a cleanup of the spill to the satisfaction of City and other governing agencies. Cleanup methods may include pressure washing (Contractor must capture and reclaim water) or other similar clean-up methods.

**C. Cart Spillage.** In the event a Cart is found to be tipped over upon arrival of Collection vehicle, Contractor shall clean up and Collect all debris spilled from Cart and Collect the remaining contents of the Cart.

**D. Covering of Loads.** Contractor shall properly cover all open debris boxes during transport to the Disposal Site.

#### **4.5.6 Personnel**

**A. Qualified Drivers.** Contractor shall furnish such qualified drivers, mechanical, supervisory, clerical, management and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical and efficient manner. All drivers shall be trained and qualified in the operation of vehicles they operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

**B. Hazardous Waste Employee Training.** Contractor shall establish and vigorously enforce an educational program which will train Contractor's employees in the identification of Hazardous Waste. Contractor's employees shall not knowingly place such Hazardous Waste in the Collection Vehicles, nor knowingly dispose of such Hazardous Wastes at the processing Facility or Disposal Site.

**C. Customer Courtesy.** Contractor shall train its employees in Customer courtesy, shall prohibit the use of loud or profane language, and shall instruct Collection crews to perform the work quietly. Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Contractor shall take all necessary corrective measures including, but not limited to, transfer, discipline or termination. If City has notified Contractor of a complaint related to discourteous or improper behavior, Contractor will consider reassigning the employee to duties not entailing contact with the public while Contractor is pursuing its investigation and corrective action process. City reserves the right to have employee removed from assignment to the services of this Agreement.

**D. Unauthorized Material Removal.** Contractor shall dismiss or discipline employees who remove documents or any other material from Containers, other than specifically for the purposes of Disposal and diversion as described in this Agreement.

**E. Training.** Contractor shall provide suitable operations, health and safety training for all of its employees who use or operate equipment or who are otherwise directly involved in Collection or other related operations.

#### **4.5.7 Identification Required**

Contractor shall provide its employees, companies and subcontractors with identification for all individuals who may make personal contact with residents or businesses in City. City may require Contractor to notify Customers yearly of the form of said identification. Contractor shall provide a list of current employees, companies, and subcontractors to City upon request.

#### **4.5.8 Fees and Gratuities**

Contractor shall not, nor shall it permit any agent, employee, or subcontractors employed by it to request, solicit, demand, or accept, either directly or indirectly, any compensation or

gratuity for services authorized to be performed under this Agreement except as described in this Agreement, in accordance with Exhibit 1 as updated and approved by City throughout the Term of the Agreement.

#### **4.5.9 Non-Discrimination**

Contractor shall not discriminate in the provision of service or the employment of Persons engaged in performance of this Agreement on account of race, color, religion, sex, age, physical handicap or medical condition in violation of any applicable federal or State law.

#### **4.5.10 Coordination With Street Sweeping Services**

Contractor shall make reasonable efforts to coordinate route schedules with City's street sweeping schedule. Contractor shall provide all routes and route schedules to the City and work with City to resolve conflicts with street sweeping schedules.

#### **4.5.11 Report of Accumulation of Solid Waste; Unauthorized Dumping**

Contractor shall direct its drivers to note (1) the addresses of any Premises at which they observe that Solid Waste is accumulating and is not being delivered for Collection; and (2) the address, or other location description, at which Solid Waste has been dumped in an apparently unauthorized manner. Contractor shall deliver the address or description to City within one (1) working day of such observation.

### **4.6 Transportation of Solid Waste**

Contractor shall transport all Refuse Collected to the Transfer Station, MRF, Transformation Facility or Disposal Site. Contractor agrees to make all reasonable efforts to separate Recyclable Materials from Refuse for diversion from landfill Disposal.

Contractor shall maintain accurate records of the quantities of Solid Waste transported to the Transfer Station, MRF, Transformation Facility or Disposal Site and will cooperate with City in any audits or investigations of such quantities.

Contractor shall cooperate with the operator of any Transfer Station, MRF, Transformation Facility or Disposal Site with regard to operations therein, including, for example, complying with directions from the operator to unload Collection vehicles in designated areas, accommodating to maintenance operations and construction of new facilities, cooperating with its Hazardous Waste exclusion program, and so forth.

#### **4.7 Disposal of Refuse**

The Contractor shall dispose of Refuse Collected, but not sent to a processing or Transformation Facility, at the Disposal Site.

#### **4.8 Status of Disposal Site**

Any Disposal Site utilized by Contractor, shall be designed and constructed in accordance with 23 California Code of Regulations Section 2510 et seq. ("Subchapter 15"). Any such landfill has been issued all permits from federal, state, regional, county and City agencies necessary for it to operate as a Class III Sanitary Landfill and is in full regulatory compliance with all such permits.

#### **4.9 Dedicated Routes**

Solid Waste Collected in the City may not be commingled in Collection vehicles with Solid Waste from other jurisdictions. All routes shall be dedicated exclusively to City of Cerritos Solid Waste. Contractor is permitted the sole exception of Collecting from ABC Unified School District schools, which may include schools outside of the City limits. Contractor will provide City with detailed route reports, including tonnage and service levels by customer, for this commingled route,

#### **4.10 Route Audit**

Upon request by the City (but no more often than annually), Contractor shall conduct an audit of its Collection routes in the City. City may use information from the audit to develop a request for proposals for a new service provider. City may instruct Contractor when to conduct the audit in order for the results to be available for use in preparation of a request for proposals or for other City uses. City may also instruct Contractor to conduct an audit at a time that would produce the most accurate Customer service information for a new service provider to use in establishing service with Customers. Contractor shall have sixty (60) calendar days in which to deliver the route audit to City.

The route audit, at minimum, shall consist of an independent physical observation by person(s) other than the route driver of each Customer in City. This person(s) is to be approved in advance by City. The route audit information shall include, as a minimum, the following information for each account:

For Residential Customers:



- Route Number;
- Truck Number;
- Number of Residential Customers;
- Number and size of Carts (by type of waste stream);

For Commercial Customers:

- Route Number;
- Truck Number;
- Account Name;
- Account Number;
- Account Service Address;
- Service Level per Contractor Billing System (Quantity, Size, Frequency);
- Service Level per Routing System;
- Observed Containers (Quantity and Size).
- Container condition;
- Proper signage; and,
- Graffiti.

Contractor shall submit to City a report summarizing the results of the audit. This summary shall include:

- Identification of the routes;
- Route map;
- Truck numbers;
- Number of accounts, by route and in total (Residential and Commercial);
- Confirmation that all routes are dedicated exclusively to City Customers;
- Number and type of Billing inaccuracies observed;
- Total monthly service charge (Residential and Commercial), pre-audit;
- Total monthly service charge (Residential and Commercial), post-audit (subsequent to corrections of identified exceptions); and,

The report shall include a description of the procedures followed to complete the route audit. This description shall include the names and titles of those supervising the route audits and the name and titles of those performing the observations.



The report shall also include a description of the changes and Contractor's plans to resolve the exceptions. The results of the audit, and supporting back-up data, shall be available for review by City or its representative.

#### **4.11 Care of Private Property**

Reasonable care shall be used by the Contractor's employees in handling all Collection Containers and enclosures, and all damage caused by intentional acts, negligence or carelessness of the Contractor's employees shall be promptly resolved with the owner thereof. All Collection Containers after emptying thereof shall be returned to within three (3) feet of the location from which the same were picked up by the Contractor's employees, upright with lids properly secured.

The Contractor's employees shall use all reasonable means to insure that Containers are not deposited in any driveway, sidewalk, or street, other than the curb. The Contractor shall ensure that its employees close all gates opened by them in making Collections, unless otherwise directed by the Customer, and avoid crossing landscaped areas and climbing or jumping over hedges or fences. The City shall refer complaints about damage to private property to the Contractor. The Contractor shall promptly repair all damage to private property caused by its employees in the course of providing Collection services.

#### **4.12 Service Exceptions; Hazardous Waste Notifications**

**A. Failure to Collect.** When Solid Waste is not Collected from any Solid Waste service recipient, Contractor shall notify its service recipient in writing, at the time Collection is not made, through the use of a "red tag" or otherwise, of the reasons why the Collection was not made.

**B. Hazardous Waste Inspection and Reporting.** Contractor reserves the right and has the duty under law to inspect Solid Waste put out for Collection and to reject Solid Waste observed to be contaminated with Hazardous Waste and the right not to Collect Hazardous Waste put out with Solid Waste. Contractor shall notify all agencies with jurisdiction, if appropriate, including the California Department of Toxic Substances Control and Local Emergency Response Providers and the National Response Center of reportable quantities of Hazardous Waste, found or observed in Solid Waste anywhere within City. In addition to other required notifications, if Contractor observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Wastes unlawfully disposed of or released on any City property, including storm drains, streets or other public rights of

way, Contractor will immediately notify the Director of Public Works or his/her designee. Contractor shall implement and maintain a training program that will assist its employees in identifying and properly disposing of any Hazardous Waste that may come into their possession.

**C. Hazardous Waste Diversion Records.** Contractor shall maintain records showing the types and quantities, if any, of Hazardous Waste found in Solid Waste and which was inadvertently Collected from service recipients within City, but diverted from landfilling.

**ARTICLE 5**  
**OTHER SERVICES**

**5.1 Services and Customer Billing**

**5.1.1 Contractor Compensation and Billing**

**Customers Billed by Contractor**

Contractor shall bill for all services, including permanent and temporary Bin and Roll-Off Box services, and any one-time or special charges, such as Commercial Special Pickups.

Contractor shall report this revenue and remit applicable Franchise Fees per Article 3 to City within 30 days of the end of each month.

Contractor Compensation is exclusively derived from the Billings for services listed on the approved maximum rate schedule, and Contractor shall charge no additional fees above the maximum rate unless approved in advance by the City.

**5.1.2 Non-Payment; Collections; Suspension of Service**

Contractor may change a late fee as listed in Exhibit 1 if payment is not received within 30 days of payment due date. Contractor may remove Commercial Bin or Roll-Off Box from Commercial Customers if payment is not received within 90 days. Contractor may charge a restart fee if Container has been removed and service will need to be restarted.

Contractor shall not discontinue service to Residents, including Cart Customers and Multi-Family Bin Customers, without advance written permission from the City. City is not required to permit Collection services to be turned off, and Contractor will complete its Billing and noticing procedures before requesting that such services be turned off. City may alternatively suspend service of other simultaneously billed services.

Notwithstanding the above, in the event of a Billing dispute or to avoid a negative impact on public health or safety, Contractor shall continue to provide service to all Customers unless permitted otherwise by City, without regard to the status of said Customer account.

## **5.2 Customer Service**

### **5.2.1 Local Office**

Contractor shall maintain a local office within 15 miles of the City limits. Said office shall be open ("Office Hours"), at a minimum, from 8:00 A.M. to 5:00 P.M., Monday through Friday, exclusive of holidays, as well as any hours in which Collection is scheduled to occur. A responsible and qualified representative of Contractor shall be available during Office Hours, as well as any hours in which Collection is scheduled to occur, for personal communication with the public. Contractor shall have either a representative, a message machine, or an answering service available outside of Office Hours. Calls received outside of Telephone Service Hours shall be responded to on the next business day. Contractor shall provide City with a twenty-four (24) hour emergency number to a live person, not voice-mail.

Contractor shall record Customer complaints regarding Customer service personnel in accordance with Section 5.2.2. Customer service representatives receiving multiple complaints are to be transferred from Customer service duties or disciplined and appropriately trained.

### **5.2.2 Complaint Documentation**

Service complaints received by City shall be directed to Contractor. Contractor shall keep daily logs of complaints forwarded to it for a minimum of three (3) years.

Contractor shall log all complaints received and said log shall include the date and time the complaint was received, the name, address and telephone number of the caller/complainant, a description of the complaint, the name of the employee recording the complaint and the action taken by Contractor to respond to and remedy the complaint. Log shall also include each instance that Solid Waste and/or Recyclables are not Collected and the form of notification used to inform the participants of the reasons of non-Collection and the end result or means of resolution of the incident.

All written Customer complaints and inquiries shall be date-stamped when received. All oral Customer complaints shall be recorded in a log book. Receipt of all complaints, both written and oral shall be acknowledged to Customer within one (1) business day of receipt. Contractor shall use best efforts to resolve complaints within two (2) business days and must respond in writing to all complaints within five (5) working days of receipt. Contractor shall log action taken by Contractor to respond to and remedy the complaint.

All Customer service records and logs kept by Contractor shall be available to City upon request. City shall, at any time during regular Office Hours, have access to Contractor's Customer service department for purposes that may include monitoring the quality of Customer service or researching Customer complaints.

#### **5.2.3 Resolution of Customer Complaints**

Should Contractor and Customers not be able to resolve a complaint, not be able to establish a mutually acceptable fee to be charged for services not included on the approved rate schedule, or otherwise disagree, the matter shall be determined by the Director of Public Works, whose decision shall be final.

Intervention by City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Contractor. Nothing in this section is intended to affect the remedies of third parties against Contractor.

#### **5.2.4 Contract Liaison**

Contractor shall designate in writing a "Contract Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Agreement-related issues. City shall have the right to approve the Contractor's choice for a liaison. City shall be notified in advance of any change in Contract Liaison.

#### **5.2.5 Service Liaison**

Contractor shall designate in writing a field supervisor as "Service Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Customer service related complaints. City shall have the right to approve the Contractor's choice for a liaison. City shall be notified in advance of any change in Service Liaison.

### **5.3 Education and Public Awareness**

#### **5.3.1 General**

Contractor acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve the requirements of AB 939. Accordingly, Contractor agrees to take direction from City to exploit opportunities to expand public and Customer knowledge concerning needs and methods to reduce, reuse and Recycle Solid Waste and to cooperate fully with City in this regard.

Contractor shall maintain its own program of providing information relevant to needs and methods to reduce, reuse and recycle Solid Waste with its Bills. All public education materials shall be approved in advance by City.

Contractor is responsible for developing and distributing public education materials to all Customers, including Single Family Customers.

### **5.3.2 Implementation and On-going Education Requirements**

In order to promote public education, in addition to any other materials it develops, Contractor shall create the following public education materials and programs at its expense, which will be distributed as indicated below. All brochures, mailings, and other educational materials are to be approved by City in advance of distribution.

- **Container Labels and Hot Stamps** – Recyclables and Green Waste Containers shall carry stickers/labels and hot stamps as described in Sections 4.5.4.1.D and 4.5.4.3.
- **Annual Newsletter** – Not less than once per year during each Rate Year, Contractor shall prepare and distribute to each Customer a brochure or newsletter promoting and explaining: all Solid Waste programs offered by City and Contractor (such as Recycling, Green Waste, Holiday Tree and Special Pickups) describe in detail; the environmental, regulatory, and other benefits of participating in Recycling; how to properly dispose of Household Hazardous Waste such as syringes, paint, etc. through the County's program or other means; Collection schedules, including holiday schedules; Customers service numbers; and the procedures to begin and terminate services. City may provide mailing labels from its Billing system.
- **Corrective Action Notice** – Contractor shall develop a corrective action notification form for use in instances where a Customer sets out inappropriate materials for Collection that explains the appropriate manner for Disposal of such items.
- **Website** – Contractor shall develop and maintain a website with a page specific to the City, to enable City's Customers to contact Contractor and to display holiday schedules, proper HHW disposal procedures, which materials are to be placed in Recyclables Containers and other useful information. Contractor will assist the City in establishing a link on the City's website to Contractor's page.

### **5.3.3 Contractor Representative**

Contractor shall retain on its staff an individual who shall, as part of his or her job function, routinely visit civic groups, school assemblies, homeowners' associations, Multi-Family complexes and businesses, to promote and explain the Recycling programs Contractor offers, and participate in demonstrations, and civic events.

### **5.3.4 Community Events**

At the direction of City, Contractor shall participate in and promote Recycling and other diversion techniques at community events and local activities. Such participation would normally include providing, without cost, Collection and educational and publicity information promoting the goals of City's Solid Waste program.

## **5.4 Waste Generation/Characterization Studies**

Contractor acknowledges that City must perform Solid Waste generation and Disposal characterization studies periodically to comply with the requirements of AB 939. Contractor agrees to participate and cooperate with City and its agents and to accomplish studies and data collection and prepare reports, as needed and directed by City, to determine weights and volumes of Solid Waste Collected and characterize Solid Waste generated, disposed, transformed, diverted or otherwise handled/processed, by Customer type (Single Family, Multi-Family, Commercial), to satisfy the requirements of AB 939. Contractor will at its sole expense conduct such a waste generation and characterization study upon request of City, but not more than once every two years.

## **5.5 Street Sweeping Services**

Upon execution of this Agreement but no sooner than January 1, 2018, Contractor shall provide street sweeping services as set forth in Exhibit 4.

## **ARTICLE 6**

### **CONTRACTOR COMPENSATION AND RATES**

#### **6.1 General**

The maximum rates set forth in Exhibit 1, and as more fully defined as Contractor Compensation in this Article, shall be the maximum amount Contractor may charge Customers as full, entire and complete compensation due pursuant to this Agreement for all labor, equipment, materials and supplies, taxes, insurance, bonds, letters of credit, overhead, Disposal, transfer, profit and all other things necessary to perform all the services required by this Agreement in the manner and at the times prescribed. Contractor shall impose no other charges, for services provided under this Agreement, to Customers unless approved in advance in writing by the Director of Public Works.

#### **6.2 Initial Rates**

The maximum rates that Contractor may charge Customers through the Rate Year ending June 30, 2018, shall not exceed the maximum rates set forth in Exhibit 1.

#### **6.3 Schedule of Future Adjustments**

Beginning with the Rate Year starting July 1, 2018 and ending on June 30, 2019 and for all subsequent Rate Years, Contractor may request an annual adjustment to the maximum rates shown in Exhibit 1. The Contractor shall submit its request in writing, to be received by City in Person or via certified mail, by the preceding April 15, and shall be based on the method of adjustment described in Section 6.4. Failure to submit a written request by April 15 shall result in Contractor waiving the right to request such an increase for the subsequent Rate Year.



## 6.4 Method of Adjustments

### 6.4.1 General

Pursuant to Section 6.3, the Company may request an adjustment to the maximum rates according to the method described below and the formulas shown in Exhibits 2A, 2B, 2C, 2D, and 2E subject to review and approval of City. All future adjustments are to be effective July 1. The rate adjustment calculations shall be separately performed for Cart rates (Exhibit 2A), Bin rates (Exhibit 2B), and Roll-off Box rates (Exhibit 2C).

### 6.4.2 Cost Components and Rate Adjustment Indices

The approved rates consist of the following cost components, followed by the initial weightings of each component by waste stream. Each cost component may be adjusted by the change in the corresponding index below. See Section 6.4.3 for detailed rate adjustment procedures.

<u>Cost Component</u>	<u>% of Cost(1)</u>				<u>Rate Adjustment Index</u>	<u>Starting Index</u>
	Cart	Bin	Roll-Off			
Service	75%	65%	55%		Consumer Price Index - All Urban Consumers, All items - Los Angeles - Riverside - Orange County, CA capped at 5% per year, however, that rate adjustments in excess of 5% in any Rate Year, may be carried forward and applied to the next Rate Year which the rate adjustment does not exceed the 5% cap.	CPI as of the January prior to the July 1 when the rate change will take effect. Initial CPI index will be 252.373

Disposal	25%	35%	45%		Weighted index of disposal components as calculated below.	See Exhibit 2E.
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(1) Weightings may be adjusted for the rate adjustment following, and based upon results from, each biennial audit per Section 8.2.7.

### Components of Disposal Index

The disposal component index is the average disposal cost per ton, calculated using the following disposal components:

Disposal Cost Component	Rate Adjustment Index	Starting Index
Transfer/ Disposal	Actual change in per ton posted gate rate at DART for transfer and disposal of municipal and inert waste.	\$58.39 per ton as of January 2017.
Processing/ Disposal	Actual gate rate at PRR for processed Solid Waste (MRF'd Waste)	\$ \$84.00per ton as of January 1, 2017
Transformation	Actual change in the per ton posted gate rate at the Long Beach SERRF	\$70.00 per ton as of January 1, 2017
Green Waste	Actual change in the per ton posted gate rate at DART for segregated and uncontaminated Green Waste (2)	\$43.50 per ton as of January 1, 2017
Street Sweeping	Actual change in the per ton posted gate rate at DART for transfer and disposal of municipal and inert waste.	\$58.39 per ton as of January 2017.
Food Waste	Actual change in the per ton posted gate rate at Puente Hills MRF for segregated and uncontaminated Food Waste	\$85.00 per ton as of January 1, 2017

The initial disposal component indices for each waste stream (Cart, Bin, Roll-Off Box), are calculated in Exhibit 2E, based upon assumed tonnage levels.

### **6.4.3 Rate Adjustment**

Cart, Bin, Roll-off Box, and rates will be adjusted using the same method, but will be calculated separately due to the differences in the weightings of the cost components for each Customer type, as listed in Section 6.4.2.

**Step One – Determination of the Disposal Component Index.** The initial disposal component index, as of July 1, 2018, is as calculated in Exhibit 2E. The new index is calculated in Step One of Exhibit A, B, and C , for each adjustment.

**Step Two** – Calculate the percentage increase or decrease in the service and disposal component indices listed in Section 6.4.2. The increase or decrease in the service component index, the local CPI, will be for the twelve (12) month period ending January 31 prior to the Rate Year anniversary date. The disposal index is based upon the difference between the weighted disposal component based on rates to be in effect as of the July 1 start date of the new rates, as changed from the prior July 1 rates.

**Step Three** – For rate adjustments prior to the first biennial audit (see Section 8.2.7): Cost components are weighted as listed in Section 6.4.2. For subsequent rate adjustments: The relative weightings of the service and disposal cost components will be determined by the most recent biennial audit conducted per Section 8.2.7.

Multiply the percentage changes for each rate adjustment component, as determined in Step One, by that component's weighting as a percentage of total cost.

**Step Four** – Multiply the weighted permitted percent change from Step Three by the existing maximum Cart, Bin, Roll-Off Box Collection rates to determine the increase or decrease in maximum rates. Then add (subtract) the change in rates to (from) the existing maximum rates to determine the new maximum rates.

## **6.5 Extraordinary Adjustments**

Contractor may request an adjustment to maximum rates at reasonable times other than that allowed under Section 6.3 in the event of extraordinary changes in the cost of providing service under this Agreement. Such changes shall not include changes in the market value of Recyclables or inaccurate estimates by the Contractor of its cost of operations.

Extraordinary rate adjustments shall only be effective after approval by City Council and may not be applied retroactively.

For each request for an adjustment to the maximum rates that Contractor may charge Customers brought pursuant to this section Contractor shall prepare a schedule documenting the extraordinary costs. Such request shall be prepared in a form acceptable to City with support for assumptions made by Contractor in preparing the estimate. Contractor shall also submit a schedule showing how its total costs and total revenues have changed over the past two years for the services provided under this Agreement.

City may request a copy of the Contractor's annual financial statements in connection with the City's review of Contractor's rate adjustment request. City shall review the Contractor's request and, in City's sole judgment and absolute, unfettered discretion, make the final determination as to whether an adjustment to the maximum rates will be made, and, if an adjustment is permitted, the appropriate amount of the adjustment. City may consider increases or decreases in the Contractor's total revenues and total cost of services when reviewing an extraordinary rate adjustment request.

## **ARTICLE 7**

### **REVIEW OF SERVICES AND PERFORMANCE**

#### **7.1 Performance Review Meeting**

City may hold a meeting or a public hearing annually to review Contractor's Solid Waste Collection efforts, source reduction, processing and other diversion services and overall performance under this Agreement (the "Solid Waste Services and Performance Review Meeting"). The purpose of the Solid Waste Services and Performance Review Meeting is to provide for a discussion and review of technological, economic, and regulatory changes in Collection, source reduction, Recycling, processing and Disposal to achieve a continuing, advanced Solid Waste Collection, source reduction and Recycling and Disposal system; and to ensure services are being provided by Contractor with adequate quality, effectiveness and economy, and in full compliance with the terms of this Agreement. Topics for discussion and review at the Solid Waste Services and Performance Review Meeting shall include, but shall not be limited to, services provided, feasibility of providing new services, application of new technologies, Customer complaints, amendments to this Agreement, developments in the law, new initiatives for meeting or exceeding AB 939's goals, regulatory constraints, results of route audits, and Contractor performance. City and Contractor may each select additional topics for discussion at any Solid Waste Services and Performance Review Meeting.

City shall notify Contractor of its intent to hold a Solid Waste Services and Performance Review Meeting at least sixty (60) calendar days in advance thereof. Thirty (30) calendar days after receiving notice from City of a Solid Waste Services and Performance Review Meeting, Contractor shall submit a report to City which may contain such information as it wished to have considered, and shall contain the following:

- a) Current diversion rates and a report on Contractor's outreach activities for the past year.
- b) Recommended changes and/or new services to improve City's ability to meet waste diversion and to contain costs and minimize impacts on rates. A specific plan for compliance with State diversion goals shall be included.
- c) Any specific plans for provision for new or changed services by Contractor.

d) Customer complaint records.

The reports required by this Agreement regarding Customer complaints shall be used as one basis for review of Contractor's performance, and Contractor may submit other relevant performance information and reports for consideration at the Solid Waste Services and Performance Review Meeting. In addition to the above, City may request Contractor to submit any other specific information relating to its performance for consideration at the Solid Waste Services and Performance Review Meeting, and any Customer may submit comments or complaints before or during the Meeting, either orally or in writing. Contractor shall be present at and participate in the Solid Waste Services and Performance Review Meeting.

As a result of its findings following any Solid Waste Services and Performance Review Meeting, City may require Contractor to provide expanded or new services within a reasonable time and City may direct or take corrective actions for any performance inadequacies (although nothing contained in this provision should be construed as requiring City to hold a Solid Waste Services and Performance Review Meeting in order to enforce any rights or remedies it has pursuant to the terms hereof.) Should City require expanded or new services as a remedy for Contractor's failure to perform its obligations hereunder, no additional compensation shall be due for such services. Otherwise, any new or expanded services required of Contractor shall be subject to the provisions of Section 2.10.1.

## **7.2 Performance Satisfaction Survey**

If requested in writing by the City, Contractor will create and conduct a survey at Contractor's expense in preparation for any Solid Waste Services and Performance Review Meeting held pursuant to Section 7.1. City shall notify Contractor of its desire for such a survey at least 90 days in advance of the Solid Waste Services and Performance Review Meeting. The purpose of the survey is to determine Customer satisfaction with current Collection services and Customer service provided by Contractor. The Survey will be distributed to a minimum of ten percent (10%) of the Residential Customers and ten percent (10%) of the Commercial Customers, selected at random. City may instruct Contractor to send out separate Single Family and Multiple-Family/Commercial surveys. Contractor shall obtain City's approval of each survey's content, format, and mailing list prior to its distribution. City may require that Contractor have Customer responses to the survey returned directly to City. The survey results shall be made available to the City thirty (30) days prior to the Solid Waste Services and Performance Review Meeting.

## **ARTICLE 8**

### **RECORDS, REPORTS AND INFORMATION REQUIREMENTS**

#### **8.1 General**

Contractor shall maintain such accounting, statistical and other records related to its performance under this Agreement as shall be necessary to develop the financial statements and other reports required by this Agreement. Also, Contractor agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with applicable laws and regulations and to meet the reporting and Solid Waste program management needs of City. To this extent, such requirements set out in this and other Articles of this Agreement shall not be considered limiting or necessarily complete. In particular, this Article is intended to only highlight the general nature of records and reports and is not meant to define exactly what the records and reports are to be and their content. Further, with the written direction or approval of City, the records and reports to be maintained and provided by Contractor in accordance with this and other Articles of the Agreement shall be adjusted in number, format, or frequency.

#### **8.2 Records**

##### **8.2.1 General**

Contractor shall maintain records required to conduct its operations, to support requests it may make to City, and to respond to requests from City in the conduct of City business. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data/records shall be protected and backed up. All records shall be maintained for five (5) years, and shall continue to be available for five (5) years after the expiration of this Agreement.

Contractor agrees that the records of any and all companies conducting operations addressed in the Agreement shall be provided or made available to City and its official representatives for purposes as described in this agreement during normal business hours. Customer account histories shall be made available to the City by request for a minimum of five (5) years. Such records include, but are not limited to, financial, Solid Waste, CERCLA and Disposal records.

### **8.2.2 Financial Records**

Contractor shall maintain financial records relating to its operations pursuant to this Agreement separate and segregated from such records relating to its other operations.

Contractor shall maintain at least the following records:

- Audited financial statements for Contractor;
- Records that would allow Contractor to prepare financial statements (compiled, reviewed or audited) of revenue and expense for this Agreement segregated from the other operations of Contractor (including without limitation those operations of Contractor in City and surrounding jurisdictions which are not covered by this Agreement), including a description of segregation methodology; and,
- Complete descriptions of related party transactions (corporate and/or regional management fees, inter-company profits from transfer, processing or Disposal operations).

### **8.2.3 Solid Waste Records**

Contractor shall maintain and make available to the City upon request the following records relating to its operations pursuant to this Agreement:

- a) Customer services and Billing/City payment records, including Customer name, address, service level and charges for each Customer billed by Contractor;
- b) Records of tons Collected, processed, diverted and disposed by waste stream (Refuse, Recycling, Green Waste, Construction and Demolition Debris), by Customer type (Residential, Commercial and Roll-Off Box), and the Facilities (Transfer Station, MRF, Transformation Facility or landfill) where such material was taken;
- c) Quantity of Recyclable Materials recovered by material type, as well as quantity of material diverted from landfills in compliance with AB 939;
- d) Special cleanup event results and special event tonnages, including tons disposed and diverted;
- e) Number of routes and route hours;



- f) Facilities, equipment and personnel used;
- g) Facilities and equipment operations, maintenance and repair;
- h) Number and size of Refuse, Recycling and Green Waste Containers in service;
- i) Complaints, with the ability to summarize by nature of complaint; and,
- j) Missed pickups.

#### **8.2.4 CERCLA Defense Records**

City views the ability to defend against the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and related litigation as a matter of great importance. For this reason, City regards the ability to prove where Solid Waste Collected in the City was taken for Disposal, as well as where it was not taken, to be matters of concern. Contractor shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify City's Risk Administrator and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Contractor shall provide copies of such records to City. The requirements of this section shall survive the expiration of the Term of this Agreement.

#### **8.2.5 Disposal Records**

Contractor shall maintain, and make available to the City upon request, records of Disposal of all Solid Waste Collected in City for the period of this Agreement and all extensions to this Agreement or successor Agreements. In the event Contractor discontinues providing Solid Waste Handling Services to City, Contractor shall provide all records of Disposal or processing of all Solid Waste Collected in City within thirty (30) days of discontinuing service. Records shall be in chronological and organized form and readily and easily interpreted.

#### **8.2.6 Other Programs' Records**

Records for other programs shall be tailored to specific needs. In general, they shall include:

- a) Plans, tasks, and milestones; and,
- b) Accomplishments in terms such as dates, activities conducted, quantities of products used, produced or distributed, and numbers of participants and responses.

#### **8.2.7 Biennial Audit**

City may conduct an audit of Contractor at any time, but no more often than every two years. The scope of the audit, and auditing party, will be determined by City and the scope may include, but is not limited to, Customer service levels and Billing, fee payments, Gross Receipts, tonnage, verification of weightings of cost components used in the rate adjustment formula described in Section 6.4, and verification of diversion rate. Contractor will reimburse to the City the cost of such audits up to \$70,000 for each audit in 2018 dollars. The \$70,000 amount in subsequent years shall be increased annually by the change in CPI using the formula for the change in the service component of the rates in Section 6.4.

If inaccuracies are found, City may expand the scope of the audit and recover additional audit costs from the Contractor.

#### **8.2.8 Payments and Refunds**

Should an audit disclose that fees payable by the Contractor were underpaid or that Customers were overcharged for the period under review, Contractor shall pay to City any underpayment of fees and/or refund to Contractor's Customers or to City, as directed by City, any overcharges within thirty (30) days following the date of the audit. Contractor shall pay interest to the City for any underpayment at an annual rate of 10%.

Undercharges shall not be billed in arrears for more than ninety (90) days of service, with any remaining undercharges absorbed by Contractor. Should an audit disclose that fees were overpaid, City shall credit such amounts against future fees payable by Contractor.

### **8.3 Reports**

#### **8.3.1 Report Formats and Schedule**

Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Contractor may propose report formats that are responsive to the objectives and audiences for each report. The format of each

report shall be approved by City. Contractor agrees to submit all reports in an electronic format approved by City, compatible with City's software/computers at no additional charge.

Reports shall be submitted within thirty (30) calendar days after the end of the reporting period. If requested, Contractor's complaint summary, described in Section 5.2.2, shall be sent to the Director of Public Works within five (5) days of request.

All reports shall be submitted to:

Director of Public Works (or designated representative)  
City of Cerritos  
18125 Bloomfield Avenue  
Cerritos, CA 90703

### **8.3.2 Monthly Reports**

The information listed below shall be the minimum reported:

- a) Solid Waste Collected by Contractor for each month, sorted by type of Solid Waste (Refuse, Recycling, Green Waste) in tons, Customer type (Residential, Commercial and Roll-Off Box), the Facilities where the tons were processed or disposed and the results of processing (tons recovered versus tons Disposed).
- b) Gross receipts for the month by sector for services Billed by the Contractor (e.g., Commercial, Roll-Off).
- c) Warning notices issued for contaminated Refuse, Recyclable Materials and Green Waste Containers.
- d) Other information or reports that City may reasonably request or require.
- e) Customer complaints and resolutions to those complaints.

### **8.3.3 Annual Report**

The Annual Report is to be essentially in the form and content of the monthly report, but shall also include:

- a) A summary of the number of Containers in service as of December 31 by size (number of gallons, number of yards), sector (Residential, Commercial, Roll-Off), service frequency, and type of service (Refuse, Recycling, Green Waste).

- b) A complete inventory of vehicles used to provide all services organized by category of service, including make, year, fuel type used, California license number and whether or not it is used as a spare.
- c) Number of routes and route hours per day by type of service (Residential, Commercial, Roll-Off) as of December 31.
- d) Other information or reports that City may reasonably request or require.

#### **8.3.4 Financial Report**

The City may, at City's option, request and be provided with Contractor's financial reports/statements for the most recently completed fiscal year in connection with any audit, extraordinary rate adjustment request, or verification of other information required under this Agreement.

Financial statements shall include a supplemental combining schedule showing Contractor's results of operations, including the specific revenues and expenses in connection with the operations provided for in this Agreement, separated from other operations included in such financial statements. The financial statements and footnotes shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and audited, in accordance with Generally Accepted Auditing Standards (GAAS) by a certified public accountant (CPA) licensed (in good standing) to practice public accounting in the State of California as determined by the State of California Department of Consumer Affairs Board of Accountancy. The cost for preparation of the financial statements and audit shall be borne by Contractor as a direct cost of service. In addition, Contractor shall provide to City the supplemental schedule on a compiled basis.

#### **8.4 Reporting Adverse Information**

Contractor shall provide City three copies (one to the City Manager, one to the Director of Public Works, one to the City Attorney) of all reports, pleadings, applications, notifications, Notices of Violation, communications or other material relating in any way to Contractor's performance of services pursuant to this Agreement, submitted by Contractor to, or received by Contractor from, the United States or California Environmental Protection Agency, CalRecycle, the Securities and Exchange Commission or any other federal, state or local agency, including any federal or state court. Copies shall be submitted to City within thirty (30) days of receipt by Contractor, or sooner if reasonably apparent that to do so is materially relevant, and any responses by Contractor shall be submitted to City

simultaneously with Contractor's filing or submission of such matters with said agencies. Contractor's routine correspondence to said agencies need not be routinely submitted to City, but shall be made available to City promptly upon City's written request.

## **8.5 Criminal Activity**

Contractor will immediately notify City upon the occurrence of any of the following events or circumstances listed in subsections a and b ("Convictions or Pleas") with respect to Contractor, or any of its Contract Managers defined below in paragraphs e(1), (2) and (3), and use Reasonable Business Efforts to immediately notify the City with respect to Contractor or any of its Contract Managers defined below in paragraph e(4):

**a. Convictions, etc.:** The Contractor or any of its Contract Managers defined in subsection e below, has a criminal conviction, permanent mandatory or prohibitory injunction, or a final judgment or order from the court, municipality or regulatory agency of competent jurisdiction with respect to the following ("Criminal Activity"):

- (1) Fraud or criminal offense other than offenses constituting infractions in connection with obtaining, attempting to obtain, procuring or performing a public or private agreement related to Recyclables, Green Waste or Solid Waste services of any kind (including collection, hauling, transfer, processing, composting or disposal), including this Agreement; or
- (2) Bribery or attempting to bribe a public officer or employee of a local, state, or federal agency by Contractor or by any Contract Manager in that Contract Manager's official capacity; or
- (3) Embezzlement, extortion, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice, knowingly receiving stolen property, theft or misprision (failure to disclose) of a felony; or
- (4) Unlawful Disposal of Hazardous or designated Waste the occurrence of which the Contractor or any of its Contract Managers knew or should have known; or
- (5) Violation of antitrust laws, including laws relating to price-fixing, bid-rigging and sales and market allocation, and of unfair and anti-competitive trade practice laws, including with respect to inflation of waste Collection, hauling or Disposal fees;

- b. Pleas, etc.:** Contractor or any of its Contract Managers defined in subsection e below has pled "guilty" or entered a plea of "nolo contendere" or "no contest" to criminal activity occurring within the City or related to this Agreement.
- c.** Upon the occurrence of any Convictions or Pleas, Contractor immediately will do or cause to be done both of the following:
- (1) Terminate from employment or remove from office the offending Contract Manager who is an individual, or, with respect to a Contract Manager that is the Contractor or Affiliates, the individual or individuals responsible for the Criminal Activity, unless otherwise directed or ordered by a court or regulatory agency of competent jurisdiction and/or authority, and unless said termination would subject Contractor, an Affiliate or any of its Contract Managers to substantial liability for breach of any labor agreement entered into after the date of this Agreement, and
  - (2) Eliminate the participation by that Contract Manager who is an individual or, with respect to a Contract Manager that is the Contractor or Affiliates the individual or individuals responsible for Criminal Activity, in any Positions of Influence described in subsection e below.

The City in its sole discretion may terminate the Agreement upon 30 days' notice to the Contractor, or may impose said other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it will deem proper, if the following events occur:

- (i) Contractor or any Affiliate fails to comply with the foregoing obligation of this subsection c, or
- (ii) The Criminal Activity (other than Criminal Activity described in paragraph a (4) above which Contractor did not direct or of which Contractor did not have actual knowledge) is a felony, and concerns and is related to this Agreement.

Contractor must be given the opportunity to present evidence in mitigation during the preceding notice period and City considers that evidence.

- d.** Contractor will not allow or cause to be allowed to hire or transfer from any Affiliate of any employee, officer or director of an Affiliate who is the subject of any Conviction or Plea to a position as a Contract Manager.

e. For purposes of this Section, "Contractor or any of its Contract Managers" means:

- (1) Contractor and its officers and directors,
- (2) Contractor Representative, and
- (3) Any other Persons, including Affiliates that, and Contractor's and Affiliate's employees, officers or directors who, have the authority or responsibility to directly or indirectly administer, manage, direct, supervise or oversee Services or this Agreement, including the following:
  - Supplying goods or services;
  - Serving as director of the board of directors of Contractor and an Affiliate;
  - Reviewing or negotiating Contractor's contracts (including this Agreement);
  - Providing in-house legal services;
  - Providing insurance of other performance security; and
  - Providing processing or Disposal;

but excluding the following:

- Monitoring Contractor's performance
- Supervising Contractor's finance and capital budget decisions; and
- Articulating general policies and procedures not related to Criminal Activity.

This authority and responsibility is defined as "Position of Influence."

## **8.6 Right to Inspect Records**

City shall have the right to inspect or review the specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of Contractor or its Affiliates that City shall deem, in its sole discretion, necessary to evaluate annual reports, compensation applications provided for in this Agreement and Contractor's performance provided for in this Agreement. Contractor shall make all records and documents to be reviewed and inspected by City as a part of any audit or other record

review conducted by City, available for City's review, inspection and copying within twenty (20) calendar days of receiving written notice from City requesting the same.

#### **8.7 Failure to Report**

The refusal or failure of Contractor to file any required reports, or to provide required information to City, or the inclusion of any materially false or misleading statement or representation by Contractor in such report shall be deemed a material breach of the Agreement as described in Section 11.1 and shall subject Contractor to all remedies which are available to the City under Agreement or otherwise.



## **ARTICLE 9**

### **INDEMNIFICATION, INSURANCE, BOND AND LETTER OF CREDIT**

#### **9.1 Indemnification**

Contractor hereby agrees to and shall indemnify and hold harmless City, its elected and appointed boards, commissions, officers, employees, consultants and agents (collectively, "Indemnitees") from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law or equity of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to property, or for contribution or indemnity claimed by third parties) arising or resulting from and in any way connected with (1) the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors and/or subcontractors in performing services under this Agreement; (2) the failure of Contractor, its officers, employees, agents, contractors and/or subcontractors to comply in all respects with the provisions of this Agreement, applicable laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Contractor, its officers, employees, agents, contractors and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws). The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of the Indemnitees' negligence, but shall not extend to matters resulting from the Indemnitees' sole negligence, or willful misconduct. Contractor further agrees to and shall, upon demand of City, at Contractor's sole cost and expense, defend (with attorneys acceptable to City) the Indemnitees against any claims, actions, suits in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City incurs in providing any such defense, either before, during or after the time Contractor elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Contractor.

Contractor, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," the scope of the rights granted

herein, conflicts between the rights granted herein and rights asserted by other Persons, or the limits of City's authority with respect to the grant of licenses, or agreements, exclusive or otherwise, or asserting rights under the United States or California Constitutions or any federal or state law to provide Solid Waste Handling Services in the City.

**THE PROVISIONS OF THIS SECTION SHALL NOT TERMINATE OR EXPIRE, SHALL BE GIVEN THE BROADEST POSSIBLE INTERPRETATION AND SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.**

## **9.2 Hazardous Substances Indemnification**

**A.** Without regard to any insurance coverage or requirements, and without limiting the above general indemnification obligation in any way, Contractor specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), reimburse, indemnify, and hold harmless Indemnities harmless from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Contractor that:

1. results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnatee is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or
2. relates to material Collected, transported, recycled, processed, treated or disposed of by Contractor.

**B.** Contractor's obligations pursuant to this section shall apply, without limitation, to:

1. any Claims brought pursuant to or based on the provisions of any Environmental Law;
2. any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation of Contractor of any Facility;
3. any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, Disposal, processing or use of any materials recovered by Contractor;
4. any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

**C.** The foregoing indemnity and defense obligations shall apply irrespective of the negligence or willful misconduct of Contractor or any Affiliate of Contractor.

**D.** For purposes of this section, the term "Hazardous Contaminant" shall mean any Hazardous Substance, any Hazardous Waste any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include any and all amendments to any referenced statutory or regulatory provisions made before or after the date of execution of this Agreement.

**E. THE PROVISIONS OF THIS SECTION SHALL NOT TERMINATE OR EXPIRE, SHALL BE GIVEN THE BROADEST POSSIBLE INTERPRETATION AND SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.**

### **9.3 AB 939, AB 341 and AB 1826 Indemnification and Guarantee**

A. To the extent authorized by law, Contractor agrees to indemnify and hold harmless City from and against all fines and/or penalties imposed by CalRecycle in the event the source reduction and Recycling goals or any other requirement of AB 939, AB 341 and AB 1826 are not met by City with respect to the waste stream Collected under this Agreement.

B. Contractor warrants and represents that it is familiar with City's waste characterization study as set forth in City's Source Recovery and Recycling Element (SRRE), and that it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in AB 939, AB341, AB 1826 with respect to that portion of Solid Waste generated in City that is the subject of this Agreement.

#### **9.4 Insurance**

Contractor shall procure and maintain during the entire Term of this Agreement the following types of insurance, and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Contractor's performance hereunder or the actions or inactions of any of Contractor's officers, agents, representatives, employees, or subcontractors in connection with Contractor's performance. The insurance requirements hereunder in no way limit Contractor's various defense and indemnification obligations, or any other obligations as set forth herein.

**A. Minimum Scope of Insurance.** Coverage shall be at least as broad as:

1. The most recent editions of Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 00 01).
2. The most recent editions of Insurance Services Office form number CA 00 01 covering Automobile Liability, code 1 "any auto" and endorsement CA 00 25.
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

**B. Minimum Limits of Insurance.** Contractor shall maintain in force for the term of this Agreement limits no less than:

1. Comprehensive General Liability: Ten Million Dollars (\$10,000,000) limit aggregate and Five Million Dollars (\$5,000,000) limit per occurrence for bodily injury, Personal injury and property damage.
2. Automobile Liability: Five Million Dollars (\$5,000,000) single limit per accident for bodily injury and property damage.

3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California or provide evidence of State approval to be self-insured.

**C. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention's as respects City, its officials, employees and agents; or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**D. Other Insurance Provisions.** The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages
  - a) City, its elective and appointive boards, commissions, officials, employees, agents and volunteers are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; Premises owned, leased or used by Contractor; or vehicles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its elective and appointive boards, commissions, officials, employees, agents or volunteers.
  - b) Contractor's insurance coverage shall be primary insurance as respects City, its elective and appointive boards, commissions, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its officials, elective and appointive boards, commissions, employees, agents or volunteers shall be excess of Contractor's insurance and shall not contribute with it.
  - c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officials, elective and appointive boards, commissions, employees, agents or volunteers.

- d) Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
2. Workers' Compensation and Employers Liability Coverage - The insurer shall agree to waive all rights of subrogation against City, its officials, elective and appointive boards, commissions, employees, agents and volunteers for losses arising from work performed by Contractor for City.
3. All Coverages - Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

**E. Acceptability of Insurers.** The insurance policies required by this section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of A- or better.

**F. Verification of Coverage.** Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

**G. Companies and Subcontractors.** Contractor shall include all Companies and subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Contractor and subcontractor. All coverages for Companies and subcontractors shall be subject to all of the requirements stated herein.

**H. Required Endorsements**

1. The Workers' Compensation policy shall contain an endorsement in substantially the following form:

"Thirty (30) days prior written notice by certified mail, return receipt requested, shall be given to City in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

Director of Public Works  
City of Cerritos  
18125 Bloomfield Ave.  
Cerritos, CA 90703

2. The Public Liability policy shall contain endorsements in substantially the following form:

- a) "Thirty (30) days prior written notice shall be given to City in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

Director of Public Works  
City of Cerritos  
18125 Bloomfield Ave.  
Cerritos, CA 90703

- b) " Contractor agrees to endorse the third party general liability coverage required herein to include as additional insureds City of Cerritos, its officials, employees and agents, using standard ISO endorsement No. CB 2010 with an edition date of 1985, or equivalent provisions as determined acceptable by the Office of the City Attorney for the City of Cerritos in its sole discretion. Contractor also agrees to require all contractors, subcontractors and anyone else involved in any way with the project contemplated by this agreement, to do likewise."
- c) "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by City, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."
- d) "Inclusion of City as an insured shall not affect City's rights as respects any claim, demand, suit or judgment brought or recovered against Contractor. This policy shall protect Contractor and City in the same manner as though a separate policy had been issued to each, but this shall not operate to increase Contractor's liability as set forth in the



policy beyond the amount shown or to which Contractor would have been liable if only one party had been named as an insured."

**I. Delivery of Proof of Coverage.** Simultaneously with the execution of this Agreement, Contractor shall furnish City certificates of each policy of insurance required hereunder, in form and substance satisfactory to City. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall have all required endorsements. If City requests, copies of each policy, together with all endorsements, shall also be promptly delivered to City.

Renewal certificates will be furnished periodically to City to demonstrate maintenance of the required coverage throughout the Term.

**J. Other Insurance Requirements**

1. In the event any services are delegated to another company or subcontractor, Contractor shall require such Contractor or subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the Contractor or subcontractor's employees engaged in the work in accordance with this Section 9.4. The liability insurance required by this Section 9.4 shall cover all Contractor or subcontractors or the Contractor or subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section 9.4.
2. Contractor shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Contractor from any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third Person against Contractor or any Contractor or subcontractor on account of any occurrence related to this Agreement, Contractor shall promptly report the facts in writing to the insurance carrier and to City.

If Contractor fails to procure and maintain any insurance required by this Agreement, City may take out and maintain, at Contractor's expense, such insurance as it may deem proper and deduct the cost thereof from any moneys due Contractor.



### **9.5 Faithful Performance Bond**

Concurrently with execution of this Agreement, Contractor will continue to keep in place a performance bond in the sum of the amount of Five Hundred Thousand Dollars (\$500,000), similar to the form provided in Exhibit 2, which secures the faithful performance of this Agreement, including, without limitation, payment of any penalty and the funding of any work to cure a breach of this Agreement, unless such requirement is waived by the City Manager. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void at the conclusion of the term of this Agreement only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

### **9.6 Faithful Performance Letter of Credit**

In addition to a corporate surety bond as noted in Section 9.5 above, Contractor will continue to furnish an irrevocable letter of credit in the amount of Five Hundred Thousand Dollars (\$500,000), from a financial institution acceptable to the City and in a form acceptable to the City Attorney as security for the performance of this Agreement (the "LOC"). The LOC shall be the sole responsibility of Contractor, and shall be released within thirty (30) days after both (i) the expiration of the term of this Agreement, or upon the earlier termination hereof; and (ii) Contractor's satisfactory performance of all obligations hereunder.

### **9.7 Forfeiture of Performance Bond**

In the event Contractor shall for any reason become unable to, or fail in any way to, perform as required by this Agreement, City may declare a portion or all of the performance bond which is necessary to recompense and make whole the City forfeited to the City. Upon partial or full forfeiture of the performance bond, Contractor shall restore the performance bond to its face amount within thirty (30) days of the City's declaration. Failure to restore the performance bond to its full amount within thirty (30) days shall be a material breach of the Agreement.

## **9.8 Forfeiture of Letter Of Credit**

Thirty (30) days following City providing Contractor with written notice of its failure to pay City any amount owing under this Agreement, the LOC may be drawn upon by City for purposes including, but not limited to:

- a. Payment of sums due under the terms of this Agreement which Contractor has failed to timely pay to City
- b. Reimbursement of costs borne by City to correct violations of this Agreement not corrected by Contractor, including but not limited to the liquidated damages described in Section 11.3.

City may draw upon the entire LOC and convert it to a cash deposit if Contractor fails to cause the LOC to be extended or replaced with another satisfactory letter of credit no later than 60 days prior to its expiration during the term hereof.

## **9.9 Performance Security Beyond Service Term**

Some Agreement requirements extend beyond the Term of this Agreement and other requirements, such as State-approved diversion rates per Section 4.2.8, will not be substantiated until after the final service date. Unless otherwise approved by City, the Contractor shall not terminate the performance bond or letter of credit, and will renew them to ensure continuous availability to the City, until receiving a written release from the City. Such City release shall not be unreasonably withheld. City has the right to require Contractor to maintain this bond until CalRecycle approves the City's annual report for the final year in which Contractor performed Collection services for the City. Provided there are no outstanding issues with the Contractor's performance under this Agreement, and no expectation of fines due to CalRecycle, the City will permit the Contractor to release the bond at that time. Otherwise, the security will remain in place until all Agreement-related issues are resolved. Permission from the City to discontinue holding these performance securities does not relieve Contractor of payments to the City that may be due, or may become due.

## ARTICLE 10

### CITY'S RIGHT TO PERFORM SERVICE

#### 10.1 General

In the event that Contractor, for any reason whatsoever, fails, refuses or is unable to Collect, Recycle, process, transport or dispose of any or all Solid Waste as required by this Agreement, at the time and in the manner provided in this Agreement, for a period of more than forty-eight (48) hours, and if, as a result thereof, Solid Waste should accumulate in City to such an extent, in such a manner, or for such a time that such accumulation endangers or menaces the public health, safety or welfare, then City shall have the right, but not the obligation, (1) to perform, or cause to be performed, such services itself with its own or other personnel without liability to Contractor; and/or (2) to take possession of any or all of Contractor's equipment and other personal property used therefore in the Collection and transportation of Solid Waste in the City, and to use such property to Collect and transport any Solid Waste generated within City which Contractor would otherwise be obligated to Collect, transport and properly dispose of or process pursuant to this Agreement.

Notice of City's determination to effect its rights under this section may only be given in writing to Contractor at its principal office and shall be effective thirty-six (36) hours after delivery of the written notification.

Contractor further agrees that in such event:

- A.** It will take direction from City to effect the transfer of possession of equipment to City for City's use, or for use by any Person or entity designated by the City.
- B.** It will, if City so requests, keep in good repair and condition all of such equipment, provide all motor vehicles with fuel, oil and other reasonable service, and provide such other service as may be necessary to maintain said equipment in operational condition.
- C.** City may immediately engage all or any personnel necessary or useful for the Collection and transportation of Solid Waste, including, if City so desires, employees previously or then employed by Contractor. Contractor further agrees, if City so requests, to furnish City the services of management or office Personnel employed by Contractor

whose services are necessary for Solid Waste Collection, transportation, processing and Disposal operations and for the Billing and Collection of fees for these services.

City shall indemnify, defend and save Contractor and the equipment harmless from any and all claims, liabilities, mechanics liens, actions cost and expenses (excluding fuel, oil and regular maintenance service but including reasonable attorneys' fees) arising from or connected in any manner with the City's use of Contractor's equipment during the period of its possession by City pursuant to this Section 10.1.

If the interruption or discontinuance in service is caused by any of the reasons listed in Section 11.4, City shall pay to Contractor the reasonable rental value of the equipment possession of which is taken by City, for the period of City's possession, If the interruption or discontinuance in service is caused by any other reason, regardless of City's implementation of options under this Agreement, City may consider this a default.

#### **10.2 Billing and Compensation to City During City's Possession**

Contractor agrees that it shall reimburse City for any and all costs and expenses incurred by City beyond that billed and received by City in taking over possession of the above-mentioned equipment for Solid Waste service in such manner and to an extent as would otherwise be required of Contractor under the terms of this Agreement. Such reimbursement shall be made from time to time after submission by City to Contractor of each statement listing such costs and expenses, but in no event later than five (5) working days from and after each such submission.

#### **10.3 City's Right to Relinquish Possession**

It is further mutually agreed that City may upon forty-eight (48) hour prior written notice at any time at its discretion relinquish possession of any or all of the above-mentioned equipment to Contractor and thereupon demand that Contractor resume the Solid Waste Handling Services as provided in this Agreement, whereupon Contractor shall be bound to resume the same.

#### **10.4 City's Possession Not A Taking**

It is expressly agreed between the Parties that City's exercise of its rights under this Article (1) does not constitute a taking of private property for which compensation must be paid, (2) shall not create any liability on the part of City to Contractor, except as set forth in the

indemnity provision in Section 10.1.C and (3) does not exempt Contractor from any of the indemnity and insurance provisions of this Agreement, which are meant to extend to circumstances arising under this Article provided that Contractor is not required to indemnify City against claims and damages arising from the sole negligence of City, its elective and appointive boards, commissions, officers, employees and agents in the operation of Collection Vehicles during the time City has taken possession of such vehicles.

#### **10.5 Duration of City's Possession**

City's right pursuant to this Article to retain temporary possession of Contractor's equipment, and to render Collection services, shall terminate when City determines that such services can be resumed by Contractor, or when City no longer reasonably requires such equipment. In any case, City has no obligation to maintain possession of Contractor's equipment and/or continue its use for any period of time and may at any time, in its sole discretion, relinquish possession to Contractor.

## ARTICLE 11

### DEFAULT, REMEDIES AND LIQUIDATED DAMAGES

#### 11.1 Events of Default

All provisions of the Franchise and this Agreement to be performed by Contractor are considered material. Each of the following shall constitute an event of default by the Contractor.

- A. Fraud or Deceit or Misrepresentation.** If the Contractor engages in, or attempts to practice, any fraud or deceit upon City or makes a misrepresentation regarding material information to City.
- B. Insolvency or Bankruptcy.** If Contractor becomes insolvent, unable, or unwilling to pay its debts, files a bankruptcy petition or takes steps to liquidate its assets.
- C. Failure to Maintain Coverage.** If Contractor fails to provide or maintain in full force and effect the Workers' Compensation, liability, or indemnification coverage as required by this Agreement.
- D. Violations of Regulation.** If Contractor violates any orders or filings of any regulatory body having jurisdiction over Contractor relative to this Agreement, provided that Contractor may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of the Franchise and this Agreement shall be deemed to have occurred until a final decision adverse to the Contractor is entered.
- E. Failure to Perform.** If Contractor ceases to provide all or a portion of the Collection, processing or Recycling services, or any other Solid Waste Handling Services as required under this Agreement for a period of seventy-two (72) hours or more, for any reason within the control of Contractor, including labor disputes.
- F. Failure to Pay.** If Contractor fails to make any payments required under this Agreement and/or refuses to provide City, within ten (10) days of the demand, with required information, reports, and/or records in a timely manner as provided for in the Agreement.

**G. Failure to Cooperate with Audits.** Failure to complete, perform or cooperate with any audit as described by this Agreement.

**H. Failure to Submit Reports or Documentation.** Failure to complete or to provide required reports or documents to City as required by this Agreement.

**I. Acts or Omissions.**

A. Any act or omission by Contractor relative to the services provided under this Agreement which violates the terms, conditions, or requirements of this Agreement, or AB 939, or any law, statute, ordinance, order, directive, rule, or regulation issued pursuant to AB 939 shall constitute a default by the Contractor. Any failure to correct or remedy any such violation within the time set in the written notice of the violation or, if Contractor cannot reasonably correct or remedy the breach within the time set forth in such notice, if Contractor should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter shall constitute a default by Contractor.

B. Any situation in which Contractor, or any of its officers, directors or employees, is found guilty of any crime related to the performance of this Agreement, or of any crime related to anti-trust activities, illegal transport or Disposal of hazardous or toxic materials, or bribery of public officials shall constitute a default by Contractor. The term "found guilty" shall be deemed to include any judicial determination that Contractor or any of Contractor's officers, directors or employees is guilty as well as any admission of guilt by Contractor or any of Contractor's officers, directors or employees including, but not limited to, the plea of "guilty", "nolo contendere", "no contest", and "guilty to a lesser charge."

**J. False or Misleading Statements.** Any representation or disclosure made to City by Contractor in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

**K. Attachment.** The seizure of, attachment of, or levy on, the operating equipment of Contractor, including, without limits, its equipment, maintenance or office facilities, or any part thereof.

**L. Suspension or Termination of Service.** Any termination or suspension of the transaction of business by Contractor, including, without limitation, due to labor unrest including strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action lasting more than two (2) consecutive days.

**M. Failure to Provide Assurance of Performance.** If Contractor fails to provide reasonable assurances of performance as required under Section 11.6.

**N. Commingling of Recyclables With Refuse/Landfilling of Recyclables.** If Contractor empties a Container of properly set out Recyclable Materials into a Refuse load, or transports Recyclable Materials to a landfill or other location at which the material will not be diverted from landfilling.

Contractor shall have forty-eight (48) hours from the time it is given notification by City to cure any default arising under subsections E, F, G, H, K, L, M and N provided, however, that City shall not be obligated to provide Contractor with a notice and cure opportunity if Contractor has committed the same or similar breach within a twenty-four (24) month period. It is expressly understood that Contractor is not entitled to receive notice of default, or to cure such default, with respect to those matters listed in subsections A, B, C, D, I and J above.

#### **11.2 Right to Terminate Upon Default and Right to Specific Performance**

If Contractor commits a material breach, including specifically any of the matters listed in subsections A through N of Section 11.1 above (and, if permitted to cure, does not cure it within the forty-eight (48) hours), City shall be entitled to unilaterally terminate this Agreement or impose other such sanctions (which may include financial sanctions, temporary suspensions or any other conditions it deems appropriate short of termination) as it shall deem proper. Should City decide to terminate this Agreement upon a default by Contractor, City shall have the right to do so upon giving ten (10) days notice to Contractor, and shall not be required to take any further action (such as holding any hearing, bringing any suit or taking any other action.)

City's rights to terminate this Agreement pursuant to Article 11 and to take possession of Contractor's Facility and/or equipment pursuant to Article 10 are not exclusive, and City's termination of this Agreement shall not constitute an election of remedies. Instead, such remedies shall be in addition to any and all other legal and equitable rights and remedies which City may have.



By virtue of the nature of this Agreement, the urgency of timely continuous and high-quality service, the time required to effect alternative service, and the rights granted by City to Contractor, the remedy of damages for a breach hereof by Contractor is inadequate and City shall be entitled to seek injunctive relief and/or specific performance of any breach of this Agreement.

### **11.3 Liquidated Damages**

**A. General.** City finds, and Contractor agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a breach by Contractor of certain specific obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that the services that are the subject of this Agreement might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such specific breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.

**B. Service Performance Standards; Liquidated Damages for Failure to Meet Standards.** The parties further acknowledge that consistent, reliable Solid Waste Handling Service is of utmost importance to City and that City has considered and relied on Contractor's representations as to its quality of service commitment in entering this Agreement with it. The Parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if Contractor fails to achieve the performance standards, or fails to submit required documents in a timely manner, City and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which City will suffer. Therefore, without prejudice to City's right to treat such breaches as an event of default under this Article 11, the Parties agree that the following liquidated damage amounts represent a

reasonable estimate of the amount of such damages for such specific breaches, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made.

Contractor  
Initial Here

AOB

City

Initial Here

GR

Contractor agrees to pay (as liquidated damages and not as a penalty) the amounts set forth below:

1. Collection Reliability

- a) For each failure to commence service to a new Customer account within seven (7) days after order, in excess of ten (10) such failures annually:  
\$50.00
- b) For each failure, which exceeds ten (10) such failures annually, to Collect Solid Waste from any established Customer account on the scheduled Collection day and not make up the Collection within the time allotted per Section 4.5.2:  
\$50.00
- c) For each failure, which exceeds ten (10) such failures annually, to Collect Solid Waste, which has been properly set out for Collection, from the same Customer on two (2) consecutive scheduled pickup days:  
\$50.00

2. Collection Quality

- a) For each occurrence of failure to properly return empty Containers to avoid pedestrian or vehicular traffic impediments or to place Containers upright which exceeds ten (10) such occurrences annually:  
\$50.00
- b) For each occurrence of excessive noise or discourteous behavior that exceeds five (5) occurrences annually:  
\$50.00

- c) For each occurrence of Collecting Solid Waste during unauthorized hours which exceeds ten (10) such occurrences annually: \$50.00
- d) For each occurrence of damage to private property which exceeds ten (10) such occurrences annually: \$50.00
- e) For each failure to clean up Solid Waste spilled from Solid Waste Containers within ninety (90) minutes that exceeds ten (10) such failures annually: \$50.00

3. Customer Responsiveness

- a) For each failure to initially respond to a Customer complaint within one (1) business day, and for each additional day in which the complaint is not addressed: \$50.00
- b) For each failure to process Customer complaints as required by Article 5: \$50.00
- c) For each failure to remove graffiti from Containers, or to replace with Containers bearing no graffiti, within one (1) business day of request from City or Customer, in excess of (10) such failures annually: \$ 50.00 per day
- d) For each failure to repair or replace a damaged or missing Container within two (2) business days of request from City or Customer, in excess of (10) such failures annually: \$ 50.00 per day
- e) For each failure to process a claim for damages within thirty (30) days from the date submitted to Contractor (if delay is due to a claim being settled through formally mediation, arbitration or otherwise litigated and Contractor is successful, City shall waive liquidated damages): \$50.00
- f) For each additional thirty (30) day increment of time in which Contractor has failed to resolve a claim for damages within thirty (30) days from the claim date (if delay is due to a claim being settled through formally mediation, arbitration or otherwise litigated and Contractor is successful, City shall waive liquidated damages): \$50.00

4. Diversion Efforts

- a) For each report submitted to CalRecycle (beginning as indicated in Section 4.2.8) which City submits to the State, or which is later revised, that reflects an overall diversion rate lower than the diversion rate required per Section 4.2.8: \$20,000.00
- b) For each ton less than the required number of total tons to be delivered for Transformation in accordance with Section 4.2.7: \$100/ton

5. Timeliness of Submissions to City

- a) Any report shall be considered late until such time as a correct and complete report is received by City. For each calendar day a report is late, the daily liquidated damage amount shall be: \$100 per day
- b) For each failure to notify City in advance of a change in contract or service liaison to the City under this agreement: \$500 per notice missed

6. Cooperation with Service Provider Transition

- a) For each calendar day routing information requested by City in accordance with Section 12.8 is received after City-established due dates, both for preparation of a request for proposals and for new service provider's implementation of service : \$1,000/day
- b) For each calendar day delivery of keys, access codes, remote controls, or other means of access to Solid Waste Containers is delayed beyond one (1) day prior to new service provider servicing Customers with special container access requirements, as described in Section 12.8: \$1,000/day
- c) For delay in not meeting the requirements contained in Sections 4.10 and 12.8 in a timely manner, in addition to the daily liquidated damages for breach under 6(a) and 6(b) above, liquidated damages of: \$35,000

7. General Contract Adherence

For each day that Contractor fails to provide services required under the Agreement, or comply with terms of the Agreement, five (5) business days after receipt of

written notification from City that such services are not being provided or terms are not being met: \$300.00/day

City may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees or representative or investigation of Customer complaints.

Prior to assessing liquidated damages, City shall give Contractor notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance.

Contractor may review (and make copies at its own expense) all information in the possession of City relating to incident(s)/non-performance. Contractor may, within ten (10) days after receiving the notice, request a meeting with City. Contractor may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. City will provide Contractor with a written explanation of its determination on each incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The decision of City shall be final.

**C. Amount.** City may assess liquidated damages for each calendar day or event, as appropriate, that Contractor is determined to be liable in accordance with this Agreement.

**D. Timing of Payment.** Contractor shall pay any liquidated damages assessed by City within ten (10) days after they are assessed. If they are not paid within the ten (10) day period, City may proceed against the performance bond or letter of credit required by the Agreement or find Contractor in default and terminate this Agreement pursuant to Section 11.2, or both.

#### **11.4 Excuse from Performance**

The Parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of floods, earthquakes, other natural disasters, war, civil insurrection, riots, acts of any government (including judicial action), and other similar catastrophic events which are beyond the control of and not the fault of the party claiming excuse from performance hereunder. Labor unrest, including, but not limited to, strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by Contractor's employees or directed at Contractor is not an excuse from performance and Contractor shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events.

The party claiming excuse from performance shall, within two (2) days after such party has notice of such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this section.

The interruption or discontinuance of Contractor's services caused by one (1) or more of the events excused shall not constitute a default by Contractor under this Agreement.

Notwithstanding the foregoing, however, if Contractor is excused from performing its obligations hereunder for any of the causes listed in this section for a period of seven (7) days or more, City shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days' notice, in which case the provisions relative to taking possession of Contractor's land, equipment and other property and engaging Contractor's Personnel in Article 10 and this Article 11 will apply.

#### **11.5 Notice, Hearing and Appeal of City Breach**

A. Administrative Hearing. Should Contractor contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. A hearing officer shall be appointed by the City Manager, and the hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the Parties. The hearing officer shall make an advisory ruling on Contractor's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the parties so agree in writing within thirty (30) days of the date notice of the decision is given to both Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

B. Other Remedies; Claims. Contractor shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Contractor shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted 30 day period to accept the hearing officer's decision has passed, or either City or Contractor has given timely written notice to the other that it will not accept the hearing officer's decision.

C. Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Contractor against City arising out of this Agreement, Contractor shall present a claim to City, as required by Government Code section 910 et seq, within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

#### **11.6 Assurance of Performance**

City may, at its option and in addition to all other remedies it may have, demand from Contractor reasonable assurances of timely and proper performance of this Agreement, in such form and substance as City may require. If Contractor fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by City, such failure or refusal shall be an event of default.



## **ARTICLE 12**

### **OTHER AGREEMENTS OF THE PARTIES**

#### **12.1 Relationship of Parties**

The Parties intend that Contractor shall perform the services required by this Agreement as an independent contractor engaged by City and not as an officer or employee of City nor as a partner of or joint venture with City. No employee or agent or Contractor shall be or shall be deemed to be an employee or agent of City. Except as expressly provided herein, Contractor shall have the exclusive control over the manner and means of conducting the Solid Waste Handling Services performed under this Agreement, and all Persons performing such services. Contractor shall be solely responsible for the acts and omissions of its officers, employees, Affiliates, contractors, subcontractors and agents. Neither Contractor nor its officers, employees, Affiliates, contractors, subcontractors and agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to City employees by virtue of their employment with City.

#### **12.2 Compliance with Law**

In providing the services required under this Agreement, Contractor shall at all times, at its sole cost, comply with all applicable laws and regulations of the United States, the State of California, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended, including but not limited to the payment of prevailing wage, if applicable.

#### **12.3 Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

#### **12.4 Jurisdiction**

Except for those matters where Federal Courts have exclusive jurisdiction, any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits.



With respect to venue, the Parties agree that this Agreement is made in and will be performed in Los Angeles County.

## **12.5 Assignment**

Except as may be provided for in Article 10 (City's Right to Perform Service), Contractor shall not assign its rights, nor delegate, subcontract or otherwise transfer its obligations under this Agreement (collectively referred to as an "assignment") to any other Person without the prior written consent of City. Any such assignment made without the consent of City shall be void and the attempted assignment shall constitute a material breach of this Agreement.

For purposes of this section the term "assignment" shall be given the broadest possible interpretation, and shall include, but not be limited to (i) a sale, exchange or other transfer of substantially all of Contractor's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of a majority of the outstanding common stock of Contractor to a third party provided said sale, exchange or transfer may result in a change of control of Contractor; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change of ownership or control of Contractor; (iv) any assignment by operation of law, including those resulting from mergers or acquisitions by or of Contractor of any of its Affiliates, insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, a receiver taking possession of Contractor's property, which is not removed within thirty (30) business days thereafter; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership, or change of control of Contractor.

Contractor acknowledges that this Agreement involved rendering a vital service to City's residents and businesses, and that City has selected Contractor to perform the services specified herein based on (1) Contractor's experience, skill and reputation for conducting its Solid Waste Handling Services in a safe, effective and responsible fashion, at all times in keeping with applicable Environmental Laws, regulations and best Solid Waste management practices, and (2) Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to City under this Agreement. City has relied on each of

these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement.

If Contractor requests City's consideration of and consent to an assignment, City may deny or approve such request in its sole and absolute discretion. Any request for an assignment shall be made in a manner to be prescribed by the City Manager, and no request by Contractor for consent to an assignment need be considered by City unless and until Contractor has met (or with respect to matters that would only occur upon completion of the assignment if approved, made reasonable assurances that it will meet) the following requirements:

- a) Contractor shall pay City its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment. An advance payment towards expenses may be required by City prior to City consideration of any assignment request and Contractor shall be responsible to pay all costs incurred by City in considering a request for assignment, including those in excess of the aforesaid deposit amount, regardless of whether City consents to the assignment.
- b) Contractor shall pay the City a transfer fee equal to \$250,000 as of July 1, 2018, decreasing by \$25,000 each subsequent January 1.
- c) Contractor shall furnish City with audited financial statements for itself, and the proposed assignee's operations for the immediately preceding three (3) operating years.
- d) A proforma financial statement (income statement and balance sheet) for the proposed assignee with the projected results of operations assuming that the assignment is completed. Such proforma financial statement shall reflect any debt to be incurred by the assignee as part of the acquisition of Contractor's operations.
- e) Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement; (ii) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, state or local agency having jurisdiction over its Solid Waste management operations due to any

significant failure to comply with state, federal or local Environmental Laws and that the assignee has provided City with a complete list of any such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste management practices in accordance with sound Solid Waste management practices in full compliance with all federal, state and local laws regulating the Collection and Disposal of Solid Waste including Hazardous Substances; and, (v) of any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

- f) Contractor shall submit any other information that City determines necessary to review the proposed assignment.

Under no circumstances shall City be obliged to consider any proposed assignment by City if Contractor is in default at any time during the period of consideration. Should City consent to any assignment request, such assignment shall not take effect until all conditions relating to City's approval have been met.

#### **12.6 Contracting or Subcontracting**

Contractor shall not engage any contractors or subcontractors for the Collection of Refuse, Recyclable Materials or Green Waste.

#### **12.7 Binding on Assigns**

The provisions of this Agreement shall inure to the benefit to and be binding on the permitted assigns (if any) of the Parties.

#### **12.8 Cooperation in Preparation for Termination or Expiration of Contract**

Prior to, and at, the end of the Term or in the event this Agreement is terminated for cause prior to the end of the Term, Contractor shall cooperate fully with City and any subsequent Solid Waste enterprise it designates to assure a smooth transition of Solid Waste Handling Services. Contractor's cooperation shall include, but not be limited to, providing route lists, Billing information and other operating records needed to service all Premises covered by this Agreement. The failure to cooperate with City following termination shall be

conclusively presumed to be grounds for specific performance of this covenant and/or other equitable relief necessary to enforce this covenant.

Contractor shall provide a new service provider with all keys, security codes and remote controls used to access garages and Bin enclosures. Contractor shall be responsible for coordinating transfer immediately after Contractor's final pickups, so as not to disrupt service. Contractor shall provide City with detailed route sheets containing service names and addresses, Billing names and addresses, monthly rate and service levels (number and size of Containers and pickup days) at least 90 days prior to the transition date, and provide an updated list two weeks before the transition and a final list of changes the day before the transition. Contractor shall provide means of access to the new service provider at least one full business day prior to the first day of Collection by another party, and always within sufficient time so as not to impede in any way the new service provider from easily servicing all Containers.

#### **12.9 Parties in Interest**

Nothing in this Agreement, whether express or implied, is intended to confer any rights on any Persons other than the Parties to it and their representatives, successors and permitted assigns.

#### **12.10 Waiver**

The waiver by either Party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision. The subsequent acceptance by either Party of any moneys which become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other Party of any provision of this Agreement.

#### **12.11 Contractor's Investigation**

Contractor has made an independent investigation (satisfactory to Contractor) of the conditions and circumstances surrounding the Agreement and the work to be performed by it.

### **12.12 Notice**

All notices, demands, requests, proposals, approvals, consents and other communications which this Agreement requires, authorizes or contemplates shall be in writing and shall either be personally delivered to a representative of the Parties at the address below or be deposited in the United States mail, first class postage prepaid, addressed as follows:

If to City:

Director of Public Works  
City of Cerritos  
18125 Bloomfield Ave.  
Cerritos, CA 90703

If to Contractor:

CalMet Services, Inc.  
7202 Petterson Ave.  
Paramount, CA 90723

The address to which communications may be delivered may be changed from time to time by a written notice given in accordance with this section.

Notice shall be deemed given on the day it is personally delivered or, if mailed, three (3) business days from the date it is deposited in the mail.

### **12.13 Representatives of the Parties**

References in this Agreement to the "City" shall mean the City Manager and all actions to be taken by City shall be taken by the City Manager except as expressly otherwise provided herein. The City Manager may delegate, in writing, authority to other City employees and may permit such employees, in turn, to delegate in writing some or all of such authority to subordinate employees. City Manager may determine to take a matter to the City Council for direction or actions. Contractor may rely upon actions taken by such delegates if they are within the scope of the authority so delegated to them.

Contractor shall, by the Effective Date, designate in writing a responsible officer who shall serve as the representative of Contractor in all matters related to the Agreement and shall inform City in writing of such designation and of any limitations upon his or her authority to bind Contractor. City may rely upon action taken by such designated representative as actions of Contractor unless they are outside the scope of the authority expressly delegated to him/her by Contractor as communicated to City.

#### **12.14 City Free to Negotiate with Third Parties**

City may investigate all options for the Collection, transporting, Recycling, processing and Disposal of Solid Waste for periods during which this Agreement has expired or been terminated. Without limiting the generality of the foregoing, City may solicit proposals from Contractor and from third parties for the provision of Solid Waste Handling Services which are the subject of this Agreement, including without limitation Collection services, Disposal services, Recycling services, Green Waste services and processing, and any combination thereof, and may negotiate and execute agreements for such services which will take effect upon the expiration or earlier termination of this Agreement pursuant to Section 11.1 or otherwise.

#### **12.15 Compliance with Municipal Code**

Contractor shall comply with those provisions of the municipal code of City which are applicable, and with any and all amendments to such applicable provisions during the term of this Agreement.

#### **12.16 Privacy**

Contractor shall strictly observe and protect the rights of privacy of Customers. Information identifying individual Customers or the composition or contents of a Customer's waste stream shall not be revealed to any Person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision shall not be construed to preclude Contractor from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939. This provision shall not apply to reports or records provided to City pursuant to this Agreement.

#### **12.17 Proprietary Information, Public Records**

The City acknowledges that a number of the records and reports of Contractor are proprietary and confidential. Contractor is obligated to permit City inspection of its records on demand and to provide copies to City where requested. City will endeavor to maintain the confidentiality of all proprietary information provided by Contractor. For records and reports deemed proprietary and confidential by Contractor, the City will designate a 3<sup>rd</sup> party to whom Contractor may provide records and information as may be requested by the City so as to prevent the same from becoming part of the City's public record.

Notwithstanding the foregoing, any documents provided by Contractor to City that are public records may be disclosed pursuant to a proper public records request.

## **ARTICLE 13**

### **MISCELLANEOUS PROVISIONS**

#### **13.1 Entire Agreement**

This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals (including Contractor's Proposal), and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice of counsel. Each of the Parties acknowledges that no Party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other Party to execute this instrument.

#### **13.2 Section Headings**

The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

#### **13.3 References to Laws and Other Agreements**

All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided.

#### **13.4 Interpretation**

This Agreement, including the Exhibits attached hereto, shall be interpreted and construed reasonably and neither for nor against either Party, regardless of the degree to which either Party participated in its drafting.

#### **13.5 Agreement**

This Agreement may not be modified or amended in any respect except by a writing signed by the Parties.



### **13.6 Severability**

If any non-material provision of this Agreement is for any reason deemed to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

### **13.7 Exhibits**

Each of Exhibits is attached hereto and incorporated herein and made a part hereof by this reference.

### **13.8 Attorneys' Fees**

If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to recover its reasonable attorney's fees and costs. Attorneys' fees shall include attorney's fees on any appeal, and in addition a Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

IN WITNESS WHEREOF, City and Contractor have executed this Agreement as of the day and year first above written.

CITY OF CERRITOS

CALMET SERVICES, INC.

("City")

("Contractor")

DATED: May 9, 2017

DATED: 6/5/2019

By: Graue Jhu  
MAYOR

By: POD Saiza  
NAME

VP  
TITLE

Calmet Services  
NAME OF CONTRACTOR

317 7202 Petterson Ln  
ADDRESS

562-259-1231  
TELEPHONE

ATTEST: J Baione  
CITY CLERK





# CERTIFICATE OF LIABILITY INSURANCE

CALMSER-01

KH912311

DATE (MM/DD/YYYY)

5/4/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0E77964  
Solid Waste Insurance Marketing  
P.O. Box 7072  
Pasadena, CA 91109

CONTACT NAME:

PHONE (A/C, No, Ext): 1 (626) 795-9000

FAX (A/C, No): 1 (626) 577-8940

E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A : Greenwich Insurance Company

22322

INSURER B : XL Specialty Insurance Company

37885

INSURER C :

INSURER D :

INSURER E :

INSURER F :

INSURED

CalMet Services, Inc.  
7202 Petterson Lane  
Paramount, CA 90723

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		GEC3001206	11/10/2016	11/10/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS Ded: \$3,000 All Veh <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS Ded: \$1,000 Trailers	X		AEC0048649	11/10/2016	11/10/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			UEC0048650	11/10/2016	11/10/2017	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Cerritos, it elective and appointive boards, commissions, officials, employees, agents and volunteers are included as additional insureds.

Automatic Additional Insured XIC411 1013

Additional Insured-Owners, Lessees or Contractors-Scheduled Person or Organization CG20100413

Additional Insured-Owners, Lessees or Contractors (GL Primary Wording) XIL4240605

Separation of Insureds CG00010413

## CERTIFICATE HOLDER

## CANCELLATION

City of Cerritos  
Director of Public Works  
18125 Bloomfield Ave.  
Cerritos, CA 90703

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
City of Cerritos, its elective and appointive boards, commissions, officials, employees, agents and volunteers Director of Public Works 18125 Bloomfield Ave. Cerritos, CA 90703	Re: All Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**AUTOMATIC ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
AUTO DEALERS COVERAGE FORM

- A. **COVERED AUTOS LIABILITY COVERAGE, Who Is An Insured**, is amended to include as an "insured" any person or organization you are required in a written contract to name as an additional insured, but only for "bodily injury" or "property damage" otherwise covered under this policy caused, in whole or in part, by the negligent acts or omissions of:

1. You, while using a covered "auto"; or
2. Any other person, except the additional insured or any employee or agent of the additional insured, operating a covered "auto" with your permission;

Provided that:

- a. The written contract is in effect during the policy period of this policy;
- b. The written contract was signed by you and executed prior to the "accident" causing "bodily injury" or "property damage" for which liability coverage is sought; and
- c. Such person or organization is an "insured" solely to the extent required by the contract, but in no event if such person or organization is solely negligent.

- B. The Limits of Insurance provided for the Additional Insured shall not be greater than those required by contract and, in no event shall the Limits of Insurance set forth in this policy be increased by the contract.

- C. **General Conditions, Other Insurance** is amended as follows:

Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional insured whether such insurance is primary, excess, contingent or on any other basis unless the contract specifically requires that this policy be primary.

All terms, conditions, exclusions and limitations of this policy shall apply to the liability coverage provided to any additional insured, and in no event shall such coverage be enlarged or expanded by reason of the contract.

All other terms and conditions of this policy remain unchanged.

## **ENDORSEMENT #005**

This endorsement, effective 12:01 a.m., November 10, 2016, forms a part of

Policy No. GEC3001206 issued to CalMet Services, Inc.

by Greenwich Insurance Company

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### **PRIMARY INSURANCE CLAUSE ENDORSEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PRODUCTS/COMPLETED OPERATIONS COVERAGE PART

It is agreed that to the extent that insurance is afforded to any Additional Insured under this policy, this insurance shall apply as primary and not contributing with any insurance carried by such Additional Insured, as required by written contract.

All other terms and conditions of this policy remain unchanged.



## COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

### SECTION I – COVERAGES

#### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

##### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

## 2. Exclusions

This insurance does not apply to:

### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".



**f. Pollution**

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
    - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
    - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
  - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
  - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
    - (i) Any insured; or
    - (ii) Any person or organization for whom you may be legally responsible; or
  - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
    - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
    - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
    - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
  - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

**g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 26 feet long; and
  - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

**h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

**i. War**

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**j. Damage To Property**

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;



- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**l. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**q. Recording And Distribution Of Material Or Information In Violation Of Law**

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

## **COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY**

### **1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

### **2. Exclusions**

This insurance does not apply to:

#### **a. Knowing Violation Of Rights Of Another**

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

#### **b. Material Published With Knowledge Of Falsity**

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

#### **c. Material Published Prior To Policy Period**

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

#### **d. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

#### **e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

#### **f. Breach Of Contract**

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

#### **g. Quality Or Performance Of Goods – Failure To Conform To Statements**

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

#### **h. Wrong Description Of Prices**

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

**i. Infringement Of Copyright, Patent, Trademark Or Trade Secret**

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

**j. Insureds In Media And Internet Type Businesses**

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

**k. Electronic Chatrooms Or Bulletin Boards**

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

**l. Unauthorized Use Of Another's Name Or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

**m. Pollution**

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

**n. Pollution-related**

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**o. War**

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**p. Recording And Distribution Of Material Or Information In Violation Of Law**

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

## **COVERAGE C – MEDICAL PAYMENTS**

### **1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations; provided that:
    - (a) The accident takes place in the "coverage territory" and during the policy period;
    - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
    - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
  - (1) First aid administered at the time of an accident;
  - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.

### **2. Exclusions**

We will not pay expenses for "bodily injury":

#### **a. Any Insured**

To any insured, except "volunteer workers".

#### **b. Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

#### **c. Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

### **d. Workers' Compensation And Similar Laws**

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

### **e. Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

### **f. Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

### **g. Coverage A Exclusions**

Excluded under Coverage A.

## **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**

- 1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
  - a. All expenses we incur.
  - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
  - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
  - e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
  - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.



- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
  - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
  - b. This insurance applies to such liability assumed by the insured;
  - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
  - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
  - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
  - f. The indemnitee:
    - (1) Agrees in writing to:
      - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
      - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
      - (c) Notify any other insurer whose coverage is available to the indemnitee; and
      - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
    - (2) Provides us with written authorization to:
      - (a) Obtain records and other information related to the "suit"; and
      - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II – WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by;
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by; you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

- c. Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.



3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
  - a. Damages under Coverage A; and
  - b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

#### **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**

##### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

##### **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
  - (1) How, when and where the "occurrence" or offense took place;
  - (2) The names and addresses of any injured persons and witnesses; and

- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

- b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

##### **3. Legal Action Against Us**

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

#### 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

##### a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

##### b. Excess Insurance

(1) This insurance is excess over:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or

(iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

##### c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

#### 5. Premium Audit

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

#### 6. Representations

By accepting this policy, you agree:

a. The statements in the Declarations are accurate and complete;

- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

#### **7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

#### **8. Transfer Of Rights Of Recovery Against Others To Us**

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

#### **9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

### **SECTION V – DEFINITIONS**

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
  - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
  - c. All other parts of the world if the injury or damage arises out of:
    - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
    - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
    - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication; provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.



9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
  - (1) Power cranes, shovels, loaders, diggers or drills; or
  - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
  - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
  - (a) Snow removal;
  - (b) Road maintenance, but not construction or resurfacing; or
  - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
  - a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;
  - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
  - f. The use of another's advertising idea in your "advertisement"; or
  - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**16. "Products-completed operations hazard":**

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
  - (a) When all of the work called for in your contract has been completed.
  - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
  - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of:
  - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
  - (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
  - (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

**17. "Property damage" means:**

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.



As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - (a) You;
  - (b) Others trading under your name; or
  - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
  - (2) The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2) The providing of or failure to provide warnings or instructions.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/4/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  
Alliant Specialty Insurance Services, Inc.  
9201 Spectrum Center Blvd., Ste 200  
San Diego, CA 92123

CONTACT NAME: Nancye Jordan  
PHONE (A/C, No, Ext): 303-824-1416 FAX (A/C, No): 559-437-3385  
E-MAIL: Nancye.Jordan@alliant.com  
ADDRESS:

INSURER(S) AFFORDING COVERAGE  
INSURER A: Great American E&S Insurance Compan NAIC # 37532

INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:  
INSURER F:

INSURED  
Calmet Services Inc.  
Attn: Roger Bohman  
P.O. Box 2137  
Paramount CA 90723

## COVERAGES

CERTIFICATE NUMBER: 1458192511

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY						
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						EACH OCCURRENCE \$
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$
	OTHER:						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR						EACH OCCURRENCE \$
	EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input type="checkbox"/> N	N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
A	Pollution Liability Claims Made			PEL164419607	11/10/2016	11/10/2017	Limit/Each Claim \$5,000,000 Limit/Aggregate \$10,000,000 Retention \$25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Proof of Pollution Liability Insurance.

## CERTIFICATE HOLDER

City of Cerritos  
PO Box 3130  
Cerritos CA 90703

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



# CERTIFICATE OF LIABILITY INSURANCE

CALMSER-01

KH912311

DATE (MM/DD/YYYY)

5/4/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0E77964  
Solid Waste Insurance Marketing  
P.O. Box 7072  
Pasadena, CA 91109

**CONTACT NAME:**

PHONE (A/C, No, Ext): 1 (626) 795-9000

FAX (A/C, No): 1 (626) 577-8940

E-MAIL ADDRESS:

**INSURER(S) AFFORDING COVERAGE**

NAIC #

INSURER A : Zurich American Insurance Company

16535

INSURER B :

INSURER C :

INSURER D :

INSURER E :

INSURER F :

**INSURED**

Calmet Services, Inc.  
7202 Petterson Lane  
Paramount, CA 90723

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE \$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$
	OTHER:						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						\$
	<input type="checkbox"/> NON-OWNED AUTOS						
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	<input type="checkbox"/> OCCUR						\$
	<input type="checkbox"/> CLAIMS-MADE						
	DED RETENTION \$						
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y / N		WC930656414	10/01/2016	10/01/2017	E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	X				E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Modification of Time for Notice of Cancellation or Nonrenewal #U-WC-402-B (9/03)

Waiver of Our Right to Recover from Others Endorsement - California WC040306 (Ed. 4-84)

**CERTIFICATE HOLDER****CANCELLATION**

City of Cerritos  
Director of Public Works  
18125 Bloomfield Ave.  
Cerritos, CA 90703

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

## Modification of Time for Notice of Cancellation or Nonrenewal



This endorsement modifies the cancellation or nonrenewal provisions of the policy and any other endorsement to the policy stating the number of days notice to be provided by us in the event of cancellation or nonrenewal.

To the extent that the policy or other endorsement requires that we provide notice in the event of cancellation or nonrenewal,

written notice will be given the insured no less than 90 days prior to the effective date of the cancellation or nonrenewal.

Nothing in this endorsement modifies the number of days notice to be provided in the event of nonpayment of premium.

In no event will the number of days notice of cancellation or non-renewal contained in the provisions of this endorsement be less than what is required by law.

**WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY**

WC 04 03 06 (Ed. 4-84)

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT—  
CALIFORNIA**

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on October 1, 2016 at 12:01 A.M. standard time, forms a part of  
(DATE)

Policy No. WC930656414

Endorsement No.

of the Zurich American Insurance Company issued to Calmet Services, Inc.  
(NAME OF INSURANCE COMPANY)



Premium (if any) \$

\_\_\_\_\_  
Authorized Representative

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be \_\_\_\_\_ % of the California workers' compensation premium otherwise due on such remuneration.

**Schedule**

**Person or Organization:**

**Job Description:**

**"ALL PERSONS OR ORGANIZATIONS"**

**RE: ALL OPERATIONS**





**RLI Insurance Company**  
**Annually Renewable Performance Bond**

**BOND #** CMS0272691

Premium: \$7,500.00

KNOW ALL MEN BY THESE PRESENTS: That CalMet Services, Inc.  
(hereinafter called the Principal), and RLI Insurance Company (hereinafter called the Surety), are held and firmly bound unto City of Cerritos  
(hereinafter called the Obligee), in the full and just sum of Five Hundred Thousand and 00/100  
Dollars (\$ 500,000.00 ), the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, and each of their heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal and Obligee have entered into a written Agreement dated the 13<sup>th</sup> day of April, 2017 for Integrated Solid Waste Management Services  
for a period of Ten (10) years, Six (6) months which Agreement is hereby referred to and made a part hereof.

WHEREAS, the Obligee has agreed to accept a bond guaranteeing the performance of said Agreement for a period of one year.

NOW, THEREFORE, THE CONDITIONS OF THE ABOVE OBLIGATION IS SUCH, that if the Principal shall well and truly perform each and every obligation in said Agreement at the time and in the manner specified during the term of this bond, and shall reimburse said Obligee for any loss which said Obligee may sustain by reason of failure or default on the part of said Principal, than this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, That this bond is subject to the following conditions:

1. This bond is for the term beginning July 1, 2017 and ending June 30, 2018.  
The bond may be renewed for additional terms at the option of the surety, by continuation certificate executed by the Surety ninety (90) days prior to renewal. Neither non-renewal by the surety, nor failure, nor inability of the Principal to file a replacement bond shall constitute a loss to the Obligee recoverable under this bond.
2. In the event of default by the Principal, Obligee shall deliver to Surety by certified mail, a written statement of the facts of such default, within thirty (30) days of the occurrence. Within ten (10) days of any notice of default that potentially creates a health or safety threat and within thirty (30) days of all other notices of default, the Surety will have the right and opportunity, at its sole discretion, to: a) cure the default; b) assume the remainder of the Agreement and to perform or sublet same; c) or to tender to the Obligee funds sufficient to pay the cost of completion less the balance of the Agreement price up to an amount not to exceed the penal sum of the bond.
3. No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless same be brought or instituted upon the Surety within one year from termination or expiration of the bond term.



4. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrator or successors of Obligee.
5. The aggregate liability of the surety is limited to the penal sum stated herein regardless of the number or amount of claims brought against this bond and regardless of the number of years this bond remains in force.
6. If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this bond and as described in the underlying Agreement, then the terms of this bond shall prevail.
7. This bond shall not bind the Surety unless the bond is accepted by the Obligee. If the Obligee objects to any language contained herein, within thirty (30) days of the date this bond is signed and sealed by the Surety, Obligee shall return this bond, certified mail or express courier, to the Surety at its address at:

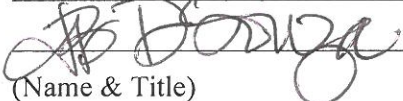
RLI Commercial Surety  
Attention: Elaine Slipe  
6303 Owensmouth Avenue, 10<sup>th</sup> Floor  
Woodland Hills, CA 91367

Failure to return the bond as described above shall constitute Obligee's acceptance of the terms and conditions, herein.

Signed and sealed this 2nd day of May, 2017.

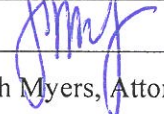
PRINCIPAL:

CalMet Services, Inc. (seal)

  
(Name & Title)

SURETY:

RLI Insurance Company (seal)

  
Sarah Myers, Attorney-in-Fact

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT Civil Code § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

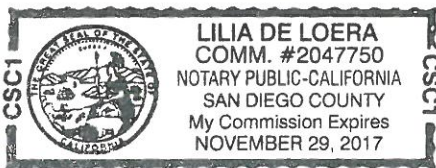
STATE OF CALIFORNIA

County of San Diego

On MAY 02 2017 before me, Lilia De Loera, Notary Public,  
Date Insert Name of Notary exactly as it appears on the official seal

personally appeared Sarah Myers

Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature

Signature of Notary Public Lilia De Loera, Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of the form to another document.

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner ☐ Limited ☐ General  
☒ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER

Top of thumb here

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER

Top of thumb here





RLI Surety  
9025 N. Lindbergh Dr. | Peoria, IL 61615  
Phone: (800)645-2402 | Fax: (309)689-2036  
www.rlicorp.com

# POWER OF ATTORNEY

## RLI Insurance Company

### Know All Men by These Presents:

That this Power of Attorney is not valid or in effect unless attached to the bond which it authorizes executed, but may be detached by the approving officer if desired.

That **RLI Insurance Company**, an Illinois corporation, does hereby make, constitute and appoint:  
Lawrence F. McMahon, James Baldassare Jr., Sarah Myers, Charlotte Aquino, jointly or severally

in the City of San Diego, State of California its true and lawful Agent and Attorney in Fact, with full power and authority hereby conferred, to sign, execute, acknowledge and deliver for and on its behalf as Surety, the following described bond.

**Any and all bonds provided the bond penalty does not exceed Twenty Five Million Dollars (\$25,000,000.00).**

The acknowledgment and execution of such bond by the said Attorney in Fact shall be as binding upon this Company as if such bond had been executed and acknowledged by the regularly elected officers of this Company.

The **RLI Insurance Company** further certifies that the following is a true and exact copy of the Resolution adopted by the Board of Directors of **RLI Insurance Company**, and now in force to-wit:

"All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

IN WITNESS WHEREOF, the **RLI Insurance Company** has caused these presents to be executed by its Vice President with its corporate seal affixed this 24th day of March, 2015.



**RLI Insurance Company**

By: Roy C. Die Vice President

State of Illinois }  
County of Peoria } SS

On this 24th day of March, 2015, before me, a Notary Public, personally appeared Roy C. Die, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of the **RLI Insurance Company** and acknowledged said instrument to be the voluntary act and deed of said corporation.

By: Jacqueline M. Bockler Notary Public



### CERTIFICATE

I, the undersigned officer of **RLI Insurance Company**, a stock corporation of the State of Illinois, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable; and furthermore, that the Resolution of the Company as set forth in the Power of Attorney, is now in force. In testimony whereof, I have hereunto set my hand and the seal of the **RLI Insurance Company** this 24th day of March, 2015.

**MAY 02 2017**

**RLI Insurance Company**

By: Roy C. Die Vice President







**Union Bank, N.A.**

Trade Service Operations  
1980 Saturn Street, V02-906  
Monterey Park, CA 91755  
SWIFT: BOFCUS33LAX

Date: May 4, 2017

Beneficiary:  
City of Cerritos  
P.O. Box 3130  
Cerritos, CA 90706

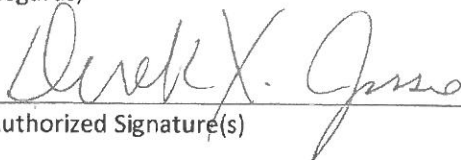
Re: Our Irrevocable Standby Letter of Credit No.: S329362M  
Applicant: CalMet Services, Inc.  
LC Amount: USD 500,000.00  
Current Expiry date: May 27, 2017

Ladies/Gentlemen:

This is to confirm you that the above mentioned Letter of Credit shall be automatically extended to May 27, 2018, per terms and conditions of the Letter of Credit.

Unless otherwise instructed herein, all correspondence and inquiries regarding this transaction should be directed to our Customer Service Center at the above address, telephone: 800-858-9120. Please indicate our reference number in all your correspondence or telephone inquiries.

Regards,

  
Authorized Signature(s)







**EXHIBIT 1**  
**INITIAL MAXIMUM CONTRACTOR RATES**

Following are the maximum contractor rates for July 1, 2017 through June 30, 2018

<b>Residential Services</b>	<b>Maximum Contractor Rate</b>
Cart Service – up to 96 gallons of capacity each: refuse, recycling, and green waste cart(s)	\$ 17.60 per mo.
Additional 96 gallons of capacity: Refuse Cart(s)	\$ 7.29 per mo.
Additional 96 gallons of capacity: Recycling Cart(s) Note: Second 96 gallons of capacity free of charge.	\$ 7.29 per mo.
Additional 96 gallons of capacity: Green Waste Cart(s) Note: Second 96 gallons of capacity free of charge.	\$ 7.29 per mo.
Extra Empty – Refuse, Recycle or Green Waste	\$12.00
Bulky Item Pickup (Not on pickup day) per pick up not to exceed 5 items	\$33.48
Cart Maintenance Fee	\$71.05
Sharps Collection Container- Gallon size	\$44.00 each
Cart size exchange (multiple exchanges permitted on one trip)	\$ 18.35 per trip
Cart Customer Special Pickups	No charge
Cart Wheel-Out and Return Service	\$ 33.62 per mo.

<b>Maximum Monthly Refuse Bin Contractor Rates</b>							
<b>Container Size</b>	<b>Pickups per week</b>						
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
1 cubic yard	91.60	155.06	220.49	287.69	356.83	427.83	519.44
2 cubic yard	121.40	205.29	291.13	378.81	468.31	559.69	677.37
3 cubic yard	133.68	226.15	318.60	411.05	503.51	596.01	740.91
4 cubic yard	157.86	278.15	398.40	518.81	641.69	764.58	934.27
2 yd compactor	\$218.51	369.54	524.01	681.80	842.94	1007.49	1219.27
3 yd compactor	\$240.60	407.06	573.47	739.92	906.32	1072.79	1333.60
Locking bin fee	17.46	21.82	26.18	30.60	34.98	39.74	43.73
Roll-out Services	\$36.75	83.23	110.23	146.98	183.72	220.46	404.18

Maximum Monthly Recycling Bin Contractor Rates							
Container Size	Pickups per week						
	1	2	3	4	5	6	7
1 cubic yard	\$51.23	86.73	123.31	160.92	199.60	239.30	290.55
2 cubic yard	67.91	114.82	162.84	211.86	260.54	313.07	378.88
3 cubic yard	74.75	126.47	178.19	229.92	281.65	333.35	414.41
4 cubic yard	88.30	155.59	222.84	290.18	358.92	427.65	522.58
Maximum Monthly Manure Bin Contractor Rates							
Container Size	Pickups per week						
	1						
3 cubic yard	\$319.15						
Maximum Monthly Commercial Organics Rates							
Per Cart Pickups per week							
1x	2x						
\$87.20	\$174.40						

# EXHIBIT 1

## INITIAL MAXIMUM CONTRACTOR RATES

Following are the maximum contractor rates for July 1, 2017 through June 30, 2018

<b>Roll-Off Box and Temporary Bin Charges</b>	<b>Maximum Customer Rates</b>
<u>Commercial Customers</u>	
3-yard Clean-up Bin	\$ 137.38 per bin pull, disposal included
3-yard Clean-up Bin – Extra Empty	\$ 52.82 per bin pull, disposal included
Roll-Off (6-ton limit)	\$586.83 per pull, disposal included
Lowboy Roll-Off (6-ton limit)	\$586.83 per pull, disposal included
<u>Residential Customers</u>	
Clean-up Bin	\$ 73.01 per pull, disposal included
3-yard Clean-up Bin – Extra Empty	\$ 73.01 per bin pull, disposal included
Roll-Off Mini (3-ton limit)	\$276.64 per pull, disposal included
Roll-Off (6-ton limit)	\$507.60 per pull, disposal included
Lowboy Roll-Off (6-ton limit)	\$507.60 per pull, disposal included

<b>Extra Services</b>	<b>Maximum Customer Rates</b>
Copy of Facility Weight Ticket/each	\$2.90
Copy of Workorder/each	\$2.90
Dry Run/Dead Run Charge per incident	\$86.59
Roll-off Box Relocation per incident	\$86.59
Roll-Off Wash	\$87.01
Roll-off Inactivity Charge per day	\$40.36
Cleanup Bin Inactivity Charge per day	\$5.80
Overweight Fee (tons over limit)	\$84.00
Commercial Bin Maintenance Fee	\$144.60
3 Yard Monthly Bin Rental (on-call customers)	\$43.27

Bin Customer Special Pickups – bulky items and electronic waste (not to exceed 5 items)			\$ 36.49 per trip	
Maximum Extra Bin Pickup Fee with Lock Lid– per extra pickup based on bin size:	1 yard	2 yards	3 yards	4 yards
	\$65.20	\$72.50	\$79.79	\$87.10
Maximum Extra Bin Pickup Fee – per extra pickup based on bin size:	1 yard	2 yards	3 yards	4 yards
	\$51.11	\$58.40	65.69	73.01
Emergency Services – One truck, one-man crew			\$115.68 per hour	
Emergency Services – One truck, one-man crew (week-ends, holidays, overtime)			\$204.18per hour	
Finance Charge – charged to accounts 30 days or more overdue			1.5% per month	
Return payment fee/credit card decline fee			\$27.25	
Maximum Re-Start Fee – charged to an account that was closed (Stop serviced) for non-payment			\$30.00	
Maximum Re-Start Fee – charged to deliver a bin(s) for an account that was closed for non-payment			\$100	
Additional Street Sweeping rate per Curb Mile			\$21.90	
Additional Sweeping Services during regular working hours (M-F, 8am-5pm)			\$60.00/hour	
Additional Sweeping Services after regular working hours			\$75.00/hour	





## Exhibit 2A

### Example Rate Adjustment – Cart Rates

Step One: Determine new disposal component index						
			A	B	C	D
Row	Disposal/Processing Facility	Index	Tonnage - 12 Months Ending June 30	Weighted Average (Column A, Rows 1 - 7, / Column A, Row 7)	Gate Fee Per Ton (January 1)	Weighted Cost per Ton
1	Transfer	(1)	9,834.00	41.1%	\$59.39	\$24.38
2	Transformation	(2)	3,744.00	15.6%	\$71.00	\$11.10
3	Green Waste	(3)	6,451.00	26.9%	\$42.50	\$11.45
4	Recyclables Processing	(4)	3,923.00	16.4%	\$0.00	\$0.00
5	Food Waste Processing	(5)	-	0.0%	\$0.00	\$0.00
6	Reserved for future use	(6)	-	0.0%	\$0.00	\$0.00
7	Total Tons		23,952.00	Index - Weighted Cost per Ton		\$46.93

Step Two: Calculate percentage change in indices					
			E	F	G
Row	Adjustment Factor	Index	Old Index Value	New Index Value	Percent Change in Index ((Column F / Column E) - 1)
8	Service	(7)	249.789	251.000	0.5%
9	Disposal		46.63	\$46.93	0.6%

Step Three: Determine Weighted Change					
			H	I	J
Row	Adjustment Factor		Component Weighting	Percent Change In Index (from Column G)	Permitted Change in Index
10	Service	(8)	75.00%	0.5%	0.4%
11	Disposal		25.00%	0.6%	0.2%
12	Total		100.00%		0.6%

Step Four: Apply percentage change to rates						
			K	L	M	N
Row	Rate Category		Current Customer Rate	Total Weighted Percentage Change (from Row 12 Column J)	Rate Increase or Decrease (Column K x Column L)	Adjusted Rate (Column K + Column M)
13	Service		\$ 17.60	0.6000%	0.11	\$ 17.71
14	Extra Refuse Capacity		\$ 7.29	0.6000%	0.04	\$ 7.33



15	Extra Recycling Capacity		\$ 7.29	0.6000%	0.04	\$ 7.33
16	Extra Green Waste Capacity		\$ 7.29	0.6000%	0.04	\$ 7.33
17	Extra Empty - Refuse		\$ 12.00	0.6000%	0.07	\$ 12.07
18	Extra Empty - Recycle		\$ 12.00	0.6000%	0.07	\$ 12.07
19	Extra Empty - Green Waste		\$ 12.00	0.6000%	0.07	\$ 12.07
20	Bulky Item Pickup (not on pick-up d		\$ 33.72	0.6000%	0.20	\$ 33.92
21	Temporary Cart Delivery		\$ 67.44	0.6000%	0.40	\$ 67.84
22	Cart Maintenance Fee		\$ 71.05	0.6000%	0.43	\$ 71.48
23	Cart Exchange		\$ 18.35	0.6000%	0.11	\$ 18.46
24	Cart Wheel-out Service		\$ 33.62	0.6000%	0.20	\$ 33.82
(1)	Posted per ton gate fee at DART for transfer and disposal of municipal and inert waste.					
(2)	Posted per ton gate rate at the Long Beach SERRF Facility for municipal and inert waste.					
(3)	Posted gate rate at DART for segregated uncontaminated green waste.					
(4)	TBD					
(5)	The per ton gate fee charged by LACSD for food processing.					
(6)	This line reserved for the use of future disposal/processing facilities currently unidentified. Additional lines may be added as needed.					
(7)	Consumer Price Index - All Urban Consumers, All Items, Los Angeles - Riverside - Orange County, CA CUURA421SAO					
(8)	The Increase in the Service Component is limited to no more than 5%.					

## Exhibit 2B

### Example Rate Adjustment – Bin Rates

			Step One: Determine new disposal component index			
			A	B	C	D
				Weighted Average (Column A, Rows 1 - 7, / Column A, Row 7)		
Row	Disposal/Processing Facility	Index	Tonnage - 12 Months Ending June 30		Gate Fee Per Ton (January 1)	Weighted Cost per Ton
1	Transfer	(1)	10,911.00	49.6%	\$59.39	\$29.45
2	Mixed Waste Processing	(2)	9,011.00	41.0%	\$85.00	\$34.81
3	Recyclables Processing	(3)	-	0.0%	\$0.00	\$0.00
4	Street Sweeping Debris	(1)	2,080.00	9.5%	\$59.39	\$5.61
5	Food Waste Processing	(4)	-	0.0%	\$0.00	\$0.00
6	Reserved for future use	(5)	-	0.0%	\$59.39	\$0.00
7	Total Tons		22,002.00	Index - Weighted Cost per Ton		\$69.87
			Step Two: Calculate percentage change in indices			
			E	F	G	
					Percent Change in Index ((Column F / Column E) - 1)	
Row	Adjustment Factor	Index	Old Index Value	New Index Value		
8	Service	(6)	249.789	251.000	0.5%	
9	Disposal		68.88	\$69.87	1.4%	
			Step Three: Determine Weighted Change			
			H	I	J	
Row	Adjustment Factor		Component Weighting	Percent Change In Index (from Column G)	Permitted Change in Index	
10	Service	(7)	65.00%	0.5%	0.3%	
11	Disposal		35.00%	1.4%	0.5%	
12	Total		100.00%		0.8%	
			Step Four: Apply percentage change to rates			
			K	L	M	N
				Total Weighted Percentage Change (from Row 11 Column J)	Rate Increase or Decrease (Column K x Column L)	Adjusted Rate (Column K + Column M)
Row	Rate Category		Current Customer Rate			
13	1 yard refuse bin, 1 pickup/week		\$ 84.04	0.8000%	\$ 0.67	\$ 84.71
14	1 yard refuse bin, 2 pickup/week		\$ 142.26	0.8000%	\$ 1.14	\$ 143.40

15	1 yard refuse bin, 3 pickup/week	\$ 202.28	0.8000%	\$ 1.62	\$ 203.90
16	1 yard refuse bin, 4 pickup/week	\$ 263.94	0.8000%	\$ 2.11	\$ 266.05
17	1 yard refuse bin, 5 pickup/week	\$ 327.37	0.8000%	\$ 2.62	\$ 329.99
18	1 yard refuse bin, 6 pickup/week	\$ 392.50	0.8000%	\$ 3.14	\$ 395.64
19	1 yard refuse bin, 7 pickup/week	\$ 476.55	0.8000%	\$ 3.81	\$ 480.36
20	2 yard refuse bin, 1 pickup/week	\$ 111.38	0.8000%	\$ 0.89	\$ 112.27
21	2 yard refuse bin, 2 pickup/week	\$ 188.34	0.8000%	\$ 1.51	\$ 189.85
22	2 yard refuse bin, 3 pickup/week	\$ 267.09	0.8000%	\$ 2.14	\$ 269.23
23	2 yard refuse bin, 4 pickup/week	\$ 347.53	0.8000%	\$ 2.78	\$ 350.31
24	2 yard refuse bin, 5 pickup/week	\$ 429.64	0.8000%	\$ 3.44	\$ 433.08
25	2 yard refuse bin, 6 pickup/week	\$ 513.48	0.8000%	\$ 4.11	\$ 517.59
26	2 yard refuse bin, 7 pickup/week	\$ 621.44	0.8000%	\$ 4.97	\$ 626.41
27	3 yard refuse bin, 1 pickup/week	\$ 122.64	0.8000%	\$ 0.98	\$ 123.62
28	3 yard refuse bin, 2 pickup/week	\$ 207.48	0.8000%	\$ 1.66	\$ 209.14
29	3 yard refuse bin, 3 pickup/week	\$ 292.29	0.8000%	\$ 2.34	\$ 294.63
30	3 yard refuse bin, 4 pickup/week	\$ 377.11	0.8000%	\$ 3.02	\$ 380.13
31	3 yard refuse bin, 5 pickup/week	\$ 461.94	0.8000%	\$ 3.70	\$ 465.64
32	3 yard refuse bin, 6 pickup/week	\$ 546.80	0.8000%	\$ 4.37	\$ 551.17
33	3 yard refuse bin, 7 pickup/week	\$ 679.73	0.8000%	\$ 5.44	\$ 685.17
34	3 yard compactor refuse bin, 1 pickup/week	\$ 220.73	0.8000%	\$ 1.77	\$ 222.50
35	3 yard compactor refuse bin, 2 pickup/week	\$ 373.45	0.8000%	\$ 2.99	\$ 376.44
36	3 yard compactor refuse bin, 3 pickup/week	\$ 526.12	0.8000%	\$ 4.21	\$ 530.33
37	3 yard compactor refuse bin, 4 pickup/week	\$ 678.83	0.8000%	\$ 5.43	\$ 684.26
38	3 yard compactor refuse bin, 5 pickup/week	\$ 831.49	0.8000%	\$ 6.65	\$ 838.14
39	3 yard compactor refuse bin, 6 pickup/week	\$ 984.21	0.8000%	\$ 7.87	\$ 992.08
40	3 yard compactor refuse bin, 7 pickup/week	\$ 1,223.49	0.8000%	\$ 9.79	\$ 1,233.28
41	4 yard refuse bin, 1 pickup/week	\$ 144.83	0.8000%	\$ 1.16	\$ 145.99
42	4 yard refuse bin, 2 pickup/week	\$ 255.18	0.8000%	\$ 2.04	\$ 257.22
43	4 yard refuse bin, 3 pickup/week	\$ 365.50	0.8000%	\$ 2.92	\$ 368.42
44	4 yard refuse bin, 4 pickup/week	\$ 475.97	0.8000%	\$ 3.81	\$ 479.78
45	4 yard refuse bin, 5 pickup/week	\$ 588.71	0.8000%	\$ 4.71	\$ 593.42
46	4 yard refuse bin, 6 pickup/week	\$ 701.45	0.8000%	\$ 5.61	\$ 707.06
47	4 yard refuse bin, 7 pickup/week	\$ 857.13	0.8000%	\$ 6.86	\$ 863.99
48	1 yard recycling bin, 1 pickup/week	\$ 47.00	0.8000%	\$ 0.38	\$ 47.38
49	1 yard recycling bin, 2 pickup/week	\$ 79.57	0.8000%	\$ 0.64	\$ 80.21
50	1 yard recycling bin, 3 pickup/week	\$ 113.13	0.8000%	\$ 0.91	\$ 114.04
51	1 yard recycling bin, 4 pickup/week	\$ 147.63	0.8000%	\$ 1.18	\$ 148.81
52	1 yard recycling bin, 5 pickup/week	\$ 183.12	0.8000%	\$ 1.46	\$ 184.58
53	1 yard recycling bin, 6 pickup/week	\$ 219.54	0.8000%	\$ 1.76	\$ 221.30
54	1 yard recycling bin, 7 pickup/week	\$ 266.56	0.8000%	\$ 2.13	\$ 268.69
55	2 yard recycling bin, 1 pickup/week	\$ 62.30	0.8000%	\$ 0.50	\$ 62.80
56	2 yard recycling bin, 2 pickup/week	\$ 105.34	0.8000%	\$ 0.84	\$ 106.18
57	2 yard recycling bin, 3 pickup/week	\$ 149.39	0.8000%	\$ 1.20	\$ 150.59
58	2 yard recycling bin, 4 pickup/week	\$ 194.37	0.8000%	\$ 1.55	\$ 195.92

59	2 yard recycling bin, 5 pickup/week	\$	239.03	0.8000%	\$	1.91	\$	240.94
60	2 yard recycling bin, 6 pickup/week	\$	287.22	0.8000%	\$	2.30	\$	289.52
61	2 yard recycling bin, 7 pickup/week	\$	347.60	0.8000%	\$	2.78	\$	350.38
62	3 yard recycling bin, 1 pickup/week	\$	68.58	0.8000%	\$	0.55	\$	69.13
63	3 yard recycling bin, 2 pickup/week	\$	116.03	0.8000%	\$	0.93	\$	116.96
64	3 yard recycling bin, 3 pickup/week	\$	163.48	0.8000%	\$	1.31	\$	164.79
65	3 yard recycling bin, 4 pickup/week	\$	210.94	0.8000%	\$	1.69	\$	212.63
66	3 yard recycling bin, 5 pickup/week	\$	258.39	0.8000%	\$	2.07	\$	260.46
67	3 yard recycling bin, 6 pickup/week	\$	305.83	0.8000%	\$	2.45	\$	308.28
68	3 yard recycling bin, 7 pickup/week	\$	380.19	0.8000%	\$	3.04	\$	383.23
69	4 yard recycling bin, 1 pickup/week	\$	81.01	0.8000%	\$	0.65	\$	81.66
70	4 yard recycling bin, 2 pickup/week	\$	142.74	0.8000%	\$	1.14	\$	143.88
71	4 yard recycling bin, 3 pickup/week	\$	204.44	0.8000%	\$	1.64	\$	206.08
72	4 yard recycling bin, 4 pickup/week	\$	266.22	0.8000%	\$	2.13	\$	268.35
73	4 yard recycling bin, 5 pickup/week	\$	329.28	0.8000%	\$	2.63	\$	331.91
74	4 yard recycling bin, 6 pickup/week	\$	392.34	0.8000%	\$	3.14	\$	395.48
75	4 yard recycling bin, 7 pickup/week	\$	479.43	0.8000%	\$	3.84	\$	483.27
75	3 yard Manure Bin	\$	292.80	0.8000%	\$	2.34	\$	295.14
76	3 yard bin rental	\$	39.70	0.8000%	\$	0.32	\$	40.02
77	Commercial Bulky Item Pickup	\$	33.48	0.8000%	\$	0.27	\$	33.75
78	Commercial Cleanup Bin	\$	126.04	0.8000%	\$	1.01	\$	127.05
79	Commercial Cleanup Bin - Extra em	\$	48.46	0.8000%	\$	0.39	\$	48.85
80	Residential Cleanup Bin	\$	66.98	0.8000%	\$	0.54	\$	67.52
81	Residential Cleanup Bin - Extra emp	\$	66.98	0.8000%	\$	0.54	\$	67.52
82	Cleanup Bin Inactivity Charge per da	\$	5.32	0.8000%	\$	0.04	\$	5.36
83	Locking Bin Fee - 1x week	\$	16.02	0.8000%	\$	0.13	\$	16.15
84	Locking Bin Fee - 2x week	\$	20.02	0.8000%	\$	0.16	\$	20.18
85	Locking Bin Fee - 3x week	\$	24.02	0.8000%	\$	0.19	\$	24.21
86	Locking Bin Fee - 4x week	\$	28.07	0.8000%	\$	0.22	\$	28.29
87	Locking Bin Fee - 5x week	\$	32.09	0.8000%	\$	0.26	\$	32.35
88	Locking Bin Fee - 6x week	\$	36.46	0.8000%	\$	0.29	\$	36.75
89	Locking Bin Fee - 7x week	\$	40.12	0.8000%	\$	0.32	\$	40.44
90	Locking Bin Fee - Extra Pickup	\$	12.93	0.8000%	\$	0.10	\$	13.03
91	Extra Pickup - 1 yard	\$	46.89	0.8000%	\$	0.38	\$	47.27
92	Extra Pickup - 2 yard	\$	53.58	0.8000%	\$	0.43	\$	54.01
93	Extra Pickup - 3 yard	\$	60.27	0.8000%	\$	0.48	\$	60.75
94	Extra Pickup - 4 yard	\$	66.98	0.8000%	\$	0.54	\$	67.52
95	Bin Maintenance Fee	\$	132.66	0.8000%	\$	1.06	\$	133.72
96	Return Payment Fee	\$	25.00	0.8000%	\$	0.20	\$	25.20

97	Emergency Vehicles, 1 man		\$ 106.13	0.8000%	\$ 0.85	\$ 106.98
98	Emergency Vehicles, 1 man, weeke		\$ 187.30	0.8000%	\$ 1.50	\$ 188.80
99	Re-start fee, without bin delivery		\$ 62.44	0.8000%	\$ 0.50	\$ 62.94
100	Re-start fee, with bin delivery		\$ 124.88	0.8000%	\$ 1.00	\$ 125.88
(1)	Posted per ton gate fee at DART for transfer and disposal of municipal and inert waste.					
(2)	Post per ton gate fee at PRR for processing mixed municipal waste.					
(3)	TBD					
(4)	The per ton gate fee charged by LACSD for food processing.					
(5)	This line reserved for the use of future disposal/processing facilities currently unidentified. Additional lines may be added as needed.					
(6)	Consumer Price Index - All Urban Consumers, All Items, Los Angeles - Riverside - Orange County, CA CUURA421SAO					
(7)	The Increase in the Service Component is limited to no more than 5%.					



## Exhibit 2C

### Example Rate Adjustment – Roll-off Rates

			Step One: Determine new disposal component index			
			A	B	C	D
			Tonnage - 12 Months Ending June 30	Weighted Average (Column A, Rows 1 - 7, / Column A, Row 7)	Gate Fee Per Ton (January 1)	Weighted Cost per Ton
Row	Disposal/Processing Facility	Index				
1	Transfer	(1)	9,784.00	89.4%	59.38	\$53.09
2	Mixed Waste Processing	(2)	212.00	1.9%	85.00	\$1.65
3	Green Waste	(3)	948.00	8.7%	42.50	\$3.68
4	Total Tons		10,944.00	Index - Weighted Cost per Ton		\$58.42
			Step Two: Calculate percentage change in indices			
			E	F	G	
					Percent Change in Index ((Column F / Column E) - 1)	
Row	Adjustment Factor	Index	Old Index Value	New Index Value		
5	Service	(4)	249.789	251.000	0.5%	
6	Disposal		\$57.60	\$58.42	1.4%	
			Step Three: Determine Weighted Change			
			H	I	J	
			Component Weighting	Percent Change In Index (from Column G)	Permitted Change in Index	
Row	Adjustment Factor					
7	Service	(5)	55.00%	0.5%	0.3%	
8	Disposal		45.00%	1.4%	0.6%	
9	Total		100.00%		0.9%	
			Step Four: Apply percentage change to rates			
			K	L	M	N
			Current Customer Rate	Total Weighted Percentage Change (from Row 9 Column J)	Rate Increase or Decrease (Column K x Column L)	Adjusted Rate (Column K + Column M)
Row	Rate Category					
10	Commercial Roll-off (6-ton)		\$ 586.83	0.9000%	5.28	\$ 592.11
11	Commercial Low-Boy		\$ 586.83	0.9000%	5.28	\$ 592.11
12	Residential Roll-off (3-ton)		\$ 276.64	0.9000%	2.49	\$ 279.13
13	Residential Roll-off (6-ton)		\$ 507.60	0.9000%	4.57	\$ 512.17
14	Residential Low-Boy		\$ 507.60	0.9000%	4.57	\$ 512.17



15	Copy of Weight Ticket (ea)		\$ 2.90	0.9000%	0.03	\$ 2.93
16	Copy of Work Order (ea)		\$ 2.90	0.9000%	0.03	\$ 2.93
17	Dry Run Charge		\$ 86.59	0.9000%	0.78	\$ 87.37
18	Box Relocation Charge		\$ 86.59	0.9000%	0.78	\$ 87.37
19	Roll-Off Inactivity Charge/Day		\$ 40.20	0.9000%	0.36	\$ 40.56
20	Wash Roll-Off Box		\$ 87.01	0.9000%	0.78	\$ 87.79

(1)	Posted per ton gate fee at DART for transfer and disposal of municipal and inert waste.					
(2)	Post per ton gate fee at PRR for processing mixed municipal waste.					
(3)	Posted gate rate at DART for segregated uncontaminated green waste.					
(4)	Consumer Price Index - All Urban Consumers, All Items, Los Angeles - Riverside - Orange County, CA CUURA421SAO					
(5)	The Increase in the Service Component is limited to no more than 5%.					

## Exhibit 2D

### Establishment of Initial Disposal Index as of January 1, 2017

			A	B	C	D
Row	Adjustment Factor	Index	Tonnage - 12 Months Ending June 30	Weighted Average	Gate Fee Per Ton (January 1)	Weighted Cost per Ton
1	Transfer	(1)	9,834.00	41.1%	\$58.39	\$23.97
2	Transformation	(2)	3,744.00	15.6%	\$70.00	\$10.94
3	Green Waste	(3)	6,451.00	26.9%	\$43.50	\$11.72
4	Recyclables Processing	(4)	3,923.00	16.4%	\$0.00	\$0.00
5	Food Waste Processing	(5)	-	0.0%	\$85.00	\$0.00
6	Reserved for future use	(6)	-	0.0%	\$0.00	\$0.00
7	Total Tons		23,952.00	Index - Weight Cost Per Ton		\$46.63

Initial Disposal Index - Commercial Rate Adjustment						
			A	B	C	D
Row	Adjustment Factor	Index	Estimated Tonnage	Weighted Average	Gate Fee Per Ton	Weighted Cost per Ton
8	Transfer	(1)	10,911.00	49.6%	\$58.39	\$28.96
9	Mixed Waste Processing	(7)	9,011.00	41.0%	\$84.00	\$34.40
10	Transformation	(2)	-	0.0%	\$0.00	\$0.00
11	Recyclables Processing	(4)	-	0.0%	\$0.00	\$0.00
12	Street Sweeping Debris	(1)	2,080.00	9.5%	\$58.39	\$5.52
13	Food Waste Processing	(5)	-	0.0%	\$85.00	\$0.00
14	Reserved for future use	(6)	-	0.0%	\$0.00	\$0.00
15	Total Tons		22,002.00	Index - Weight Cost Per Ton		\$68.88

Initial Disposal Index - Roll-Off Rate Adjustment						
			A	B	C	D
Row	Adjustment Factor	Index	Estimated Tonnage	Weighted Average	Gate Fee Per Ton	Weighted Cost per Ton
16	Transfer	(1)	9,784.00	89.4%	\$58.39	\$52.20
17	Mixed Waste Processing	(7)	212.00	1.9%	\$84.00	\$1.63
18	Green Waste	(3)	948.00	8.7%	\$43.50	\$3.77
19	Total Tons		10,944.00	Index - Weight Cost Per Ton		\$57.60

(1)	Posted gate fee at DART for transfer and disposal of municipal and inert waste.		
(2)	Posted gate rate at the Long Beach SERRF Facility for municipal and inert waste.		
(3)	Posted gate rate at DART for segregated uncontaminated green waste.		
(4)	TBD		
(5)	The per ton gate fee charged by LACSD for food processing.		
(6)	This line reserved for the use of future disposal/processing facilities currently unidentified. Additional lines may be added as needed.		
(7)	Post per ton gate fee at PRR for processing mixed municipal waste.		





### **EXHIBIT 3**

#### **Contractor's Faithful Performance Bond**

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_, a California \_\_\_\_\_, as PRINCIPAL, and \_\_\_\_\_, a Corporation organized and doing business by virtue of the laws of the State of California, and duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as SURETY, are held and firmly bound to City, hereinafter called OBLIGEE, in the penal sum of five hundred thousand dollars (\$500,000) lawful money of the United States, for the payment of which, well and truly to be made, we and each of us hereby bind ourselves, and our and each of our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden PRINCIPAL has entered into a contract, entitled "INTEGRATED SOLID WASTE MANAGEMENT SERVICES" with City, to do and perform the following work, to wit: Collect, Process and dispose of Solid Waste generated within City, in accordance with the contract.

NOW, THEREFORE, if the above bounden PRINCIPAL shall well and truly perform, or cause to be performed each and all of the requirements and obligations of said contract to be performed by said PRINCIPAL, as in said contract set forth, then this BOND shall be null and void; otherwise it will remain in full force and effect.

And the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

In the event suit is brought by OBLIGEE to enforce the provisions of this bond, said Surety will pay to OBLIGEE a reasonable attorney's fee, plus costs of suit, in an amount to be fixed by the court.

IN WITNESS WHEREOF, said PRINCIPAL and said SURETY have caused these presents to be duly signed and sealed this \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

a California Corporation

\_\_\_\_\_

SURETY

By: \_\_\_\_\_

(PRINCIPAL)

(SEAL)

By: \_\_\_\_\_

(ATTORNEY IN FACT)

(SEAL)





## EXHIBIT 4

### Street Sweeping For City of Cerritos

#### I. DEFINITION OF TERMS

Whenever the terms listed below appear in this Exhibit, they shall be defined as follows:

1. **Additional Services** shall mean any services requested by the City beyond those routine services specified herein. The addition of services shall be by written Change Order.
2. **Change Order** shall mean written order, issued by the City to the Contractor, signed by the Director of Public Works, and authorizing an addition, deletion or revision in the scope of work .
3. **City Attorney** shall mean the City Attorney of the City of Cerritos.
4. **City Clerk** shall mean the City Clerk of the City of Cerritos.
5. **City-Owned Parking Lot** shall mean the parking lots located at the City-operated facilities designated in section I.K.2 and Attachment 2 of this Request for Proposals.
6. **Debris** shall mean all litter, rubbish, leaves, sand, dirt, garbage and other foreign materials removable from a paved street, alley or City- Owned Parking Lots.
7. **Street** shall mean all dedicated public right-of-way within the existing or future limits of the City of Cerritos which is paved.

#### II. SCOPE OF WORK

The Scope of work shall include once a week sweeping of all City-owned arterial, industrial, commercial and residential streets, including median island curbs, striped medians, intersections, alleys and City-Owned Parking Lots. Sweeping services shall be provided from curb to curb as described in Section III (L) of this Exhibit. Services shall include furnishing all labor, equipment, tools, fuel, material, insurance, supervision, waste recycling/disposal and all other items incidental to performing street sweeping services.

#### III. REQUIRED SERVICES

##### A. ROUTINE SWEEPING SERVICES

The Contractor or its designated sub-contract shall provide weekly street sweeping services of all City-owned arterial, industrial, commercial and residential streets, including median island curbs, striped medians, intersections, alleys and City-Owned Parking Lots. Sweeping services shall be provided from curb to curb, as described in Section III (L) of this Exhibit. The Contractor shall provide a yard for parking, maintenance and storage of all equipment



at no expense to the City. During certain seasonal variations, Debris collection may require more than one pass in order to sufficiently clean the street.

**B. ADDITIONAL SERVICES**

Additional services including emergency call-outs, or assignments requested by the City, including special event sweeping, shall be performed by the Contractor. Payment for said services shall be based upon the hourly rate listed in the Rate Sheet Exhibit 1 and be billed directly to the City.

**C. CHANGES IN SERVICE**

During the term of this Agreement or any extension thereof, the City may elect to increase or decrease the frequency or number of miles of street sweeping services. The said increase or decrease shall be by written Change Order to the Contractor. Charge Orders would have to be approved by City and Contractor by mutual consent. The unit price for Change Order sweeping shall be at the curb mile rate listed in Exhibit I and be billed directly to City.

**D. RECYCLING/DISPOSAL**

The Contractor shall transport and recycle/dispose of all Debris collected providing the services required herein in accordance with all City, County, State, and Federal requirements. When possible, Debris will be diverted from landfill disposal. Debris is not to be off-loaded at temporary storage sites on City, State, or Federal property within the City limits. The City shall be notified of all facilities that are used to process Debris. The Contractor shall be solely responsible for all fees involved in the recycling/disposal of Debris collected in the City.

**E. HOURS OF OPERATION**

The Contractor's standard Hours of Operation for sweeping under this Agreement shall be subject to the approval of the Director of Public Works or his/her authorized representative. Residential streets shall only be swept between 8:00 a.m. and 4:00 p.m., and in accordance with the City's posted parking restrictions for street sweeping schedule. Sweeping in commercial and industrial areas may begin at 4:00 a.m.

**F. HOLIDAYS**

The following is a list of holidays on which contract service will not be performed:

New Year's Day

Memorial Day

Independence Day (July 4th)  
Labor Day (First Monday in September)  
Thanksgiving Day  
Christmas Day

Special scheduling adjustments will be required when a holiday named herein falls on a weekday (Monday through Friday). During the week of a holiday, the Contractor shall adjust the weekly schedule to include services on Saturday, so as to return to the normal weekly schedule by Monday of the following week.

#### **G. WEATHER CONDITIONS**

The Director of Public Works or his/her designated representative reserves the right to be the sole judge if the weather is too inclement to sweep. When adverse weather conditions exist, Contractor will contact the Director of Public Works or his/her designated representative for a determination on postponement of sweeping services. If sweeping services are postponed due to adverse weather, the Contractor shall adjust the work schedule so as to return to the normal weekly schedule by Monday of the following week.

#### **H. CONTRACTOR/CITY COMMUNICATIONS**

##### **1. Project Manager**

Throughout the period of this Agreement, the Contractor shall designate an authorized project manager. The Contractor's authorized project manager shall be available by phone, and have the ability to report on-site to the City within one (1) hour of the City's request during standard business hours.

Contractor's project manager shall serve as the point of contact for communications with the City.

##### **2. Performance of Agreement**

The Contractor shall faithfully and regularly provide services in accordance with the Agreement. The work shall be done in a prompt, thorough, lawful, and workmanlike manner, according to the provisions of the Agreement.

Performance of each provision of the Agreement shall be subject to the approval of the Director of Public Works or his/her designated authorized representative.

##### **3. Requests for Additional Service**

The Contractor's local office shall have a twenty-four (24) hour telephone service and a responsible person in charge 7-days-a-week to receive all requests for emergency service that are forwarded by the City of Cerritos.

Contractor shall respond and provide emergency service within two hours from the time a call is placed by the City. Complaint issues related to routine service shall be resolved within the following twenty-four (24) hour period.

## **I. CONTRACT COMPLAINTS AND DEFICIENCIES**

### **1. Complaints Received by the City**

The City will notify the Contractor by telephone and/or in writing of each contract complaint reported to or discovered by the City. Contractor shall respond back to the City within 24 hours providing the corrective action taken.

Each area which is not satisfactorily cleaned will be considered a separate deficiency unless located within the same continuous mile section of the same street. In addition, the City reserves the right to secure the services of an alternate contractor and back-bill the Contractor for all costs incurred to correct the deficiency. Failure to correct the deficiency to the satisfaction of the City within twenty-four (24) hours of the notice shall be considered failure to perform.

### **2. Complaints Received by the Contractor**

Throughout the period of this Agreement, the Contractor shall establish and maintain an office with customer service representatives available to receive deficiency reports phoned in from Cerritos residents. Contractor shall maintain a log of all complaints received (including those received from City), and the corrective action implemented. This report shall be submitted to the City on a monthly basis.

## **J. CONTRACTOR'S EMPLOYEES/ EQUIPMENT**

### **1. Identification**

Contractor's employees shall wear a clean uniform bearing the Contractor's name. Employees who normally and regularly come into direct contact with the public shall bear some means of individual identification, such as a nametag or identification card.

### **2. Driver's License**

Employees driving the Contractor's vehicles shall at all times possess and carry a valid Commercial Driver's License issued by the State of California.

### **3. Equipment**

The Contractor shall, at a minimum, keep all vehicles in good repair, appearance, and sanitary conditions at all times as established by the Director of Public Works. Adequate back-up equipment must be available at all times to service the City. Contractor shall submit in its proposal a listing of all equipment (including back-up) he/she proposes to furnish under this Agreement (including year, make, vehicle

number and condition.) The City may, at its sole discretion and expense, require an annual inspection of Contractor's equipment.

Contractor shall provide and maintain during the entire period of the Agreement a fleet of regenerative air sweepers as appropriate for meeting all requirements of this Agreement and all regulatory requirements of outside agencies including, but not limited to the South Coast Air Quality Management District and the California Air Resources Board. Such requirements include, but are not limited to South Coast AQMD Rule 1186.1.

The City's representative shall have the right to cease Contractor's operations immediately, upon inspection of any vehicle/sweeper deemed unsafe or unsatisfactory during performance of the Agreement.

The Contractor shall utilize a sweeper fleet appropriate for servicing approximately 315 curb line miles of street. The fleet shall be regenerative air sweeper models of latest design and construction and shall not be prototype models. Equipment must be capable of sweeping a minimum eight- foot width as measured with all brooms in the sweeping position and shall not be more than five (5) years old at any time during the term of this Agreement. Deviations from this requirement must be reviewed and approved by the City. Equipment must be kept clean at all times; mechanical brushes and brooms shall be maintained in proper condition and shall be replaced as recommended by the manufacturer or when pick-up ability becomes impaired. The Contractor shall have available back-up street sweepers to be used in case of equipment failure.

Any changes in the Contractor's street sweeping equipment from the initial equipment must have prior written approval of the City.

All vehicles and equipment used by the Contractor must be clearly identified with the name of the company, telephone number of local office and vehicle number on each side of the equipment. All equipment must be equipped in accordance with State laws, including hazard lights visible from the rear that operate independently of the brake lights.

Sweepers must be equipped with communications to the Contractor's dispatch office, as well as GPS monitoring devices. Contractor will provide City with access to the GPS system which allows for the monitoring of each sweeper's current location, as well as previously traveled locations when requested.

At the discretion of the Director of Public Works, the City may require the installation of special odometers, time clocks or vehicle speed monitors to verify the quality and quantity of the work performed.

#### **K. SUBCONTRACTING**

Contractor may utilize the services of a subcontractor to perform services and meet the obligations set forth in this Exhibit 4 hereof if it first obtains the prior written consent of the City Manager. Any such subcontracting shall be subject to such reasonable conditions as may be required by the City Manager, and shall be subject to the following:



1. Contractor shall be responsible to ensure any permitted subcontractor complies with all applicable terms and conditions of this Agreement,
2. Any permitted subcontractor shall be required to provide written agreement to City, in a form approved by the City Attorney, demonstrating its agreement to be bound by applicable provisions of this Agreement, including specifically, without limitation, the insurance and indemnity provisions, and
3. Contractor shall be responsible for the actions and/or omissions of any permitted subcontractor as if Contractor were carrying out the services in question itself.

**L. AREAS TO BE CLEANED**

1. City-owned arterial, industrial, commercial and residential streets, including median island curbs, striped medians, intersections, alleys and specified City-Owned Parking Lots shall be swept once per week.

2. City-Owned Parking Lots at the following City facilities shall be swept at the frequency level indicated:

i.	Ironwood Golf Course	Once a week
ii.	Cerritos Park East	Once a week
iii.	Cerritos Swim Center	Once a week
iv.	Cerritos Sports Complex	Once a week
v.	Cerritos Civic Center -Library & City Hall	Twice a week
vi.	Cerritos Sheriff's Station -Underground Parking	Once a week
vii.	Cerritos Center for the Performing Arts	Twice a week
viii.	Liberty Park	Once a week
ix.	Heritage Park	Once a week
x.	Cerritos Corporate Yard	Once a week
xi.	Cerritos Senior Center	Once a week
xii.	12880 Moore Street	Once Per Week

Some facilities include multiple parking levels and/or multiple lots. Parking lot locations and details are included in Attachment 2.

## **M. STANDARD OF PERFORMANCE**

### **1. Curb to Curb**

The entire length of all curbs (including median curbs, median noses and curb returns), uncurbed pavement edges, flush and/or striped medians shall be swept each time the associated street is swept. The balance of each street ("curb to curb") shall be swept as needed. "Curb to curb" sweeping is deemed necessary when there is an accumulation of debris in the area of a street that is not swept as part of the curb-line sweeps.

### **2. Level of Cleanliness**

Contractor shall remove all debris from all streets every sweeping cycle. The Contractor shall make as many passes as necessary to accomplish the task at no additional cost to the City. This action will include the removal of spills of concrete, rock, gravel, accident debris, etc. Items of excessive size, such as cardboard, palm fronds, large rocks, etc., shall be physically picked-up and placed in the hopper by the operator or Contractor's personnel.

## **N. SWEEPING PRACTICES**

The Contractor shall, at all times, use good sweeping practices and will be responsible to make adjustments to the equipment, as necessary. The Contractor must exercise due care so as to prevent spilling, scattering or dropping of refuse or wastewater throughout sweeping activities and shall immediately clean-up such spillage, dropping, or scattering. Sweeping practices include, but are not limited to:

1. Sweeping speed shall be adjusted to street conditions with a maximum speed of six (6) miles per hour. Patterned concrete medians, intersections and crosswalks shall be swept at a maximum speed of three (3) miles per hour. The City may require the installation of sweeping speed monitoring devices to record actual vehicle speed during sweeping.
2. In order to properly service this City, the Contractor shall operate a minimum of two (2) sweepers daily. Any deviation must be approved by the Director of Public Works. Contractor may opt to utilize additional sweepers if needed to satisfactorily perform the work.
3. All work performed pursuant to this Agreement is subject to inspection by the Director of Public Works or his/her authorized representative. Areas found to be unsatisfactory shall be re-swept. No payment shall be made for such re-sweeping.

## **O. ROUTING AND SWEEPER AVAILABILITY**

Schedule and Routes: Street sweeping routes and schedules shall be developed by the Contractor and shall be subject to the approval of the Director of Public Works or his/her authorized representative. Said schedule shall be consistent with the parking restrictions for

street sweeping schedule contained herein (Attachment 1) or as may from time to time be amended.

**P. AREAS ADJACENT TO SCHOOLS**

Contractor will take note of residential streets adjacent to schools when developing route maps and sweeping schedules .If a curb- line is missed while performing sweeping services as a result of parked cars waiting to pick-up or drop-off students, the sweeper will return to the missed curb-line on the same day during the posted four-hour period in the City's posted parking restrictions for street sweeping schedule (Attachment 1).

**Q. CONSTRUCTION RELATED PROBLEMS AND STORM DEBRIS**

Dirt and debris carried onto streets from identifiable construction sites is not considered the responsibility of the Contractor if located within 100 feet of the construction site. The Contractor will be required to totally clean all debris carried by traffic to areas beyond these specified limits.

Cleanup of storm related debris must be completed no later than the next scheduled street sweeping day in any given area. Night sweeping may, and as authorized by the City, be permitted for storm cleanup.

**R. MEASUREMENT FOR PAYMENT**

**1. Additional Services**

Emergency call-outs will be measured by the actual hours spent sweeping plus the shortest travel time either to or from the work site. Travel time longer than twenty (20) minutes must be justified in writing to the City. The hours will be calculated to the nearest one-quarter hour (15 minutes).

- i. Additional street sweeping services during the Hours of Operation will be paid at a unit cost per mile.
- ii. Additional street sweeping services after the Hours of Operation will be paid at a unit cost per hour. Holidays in which Routine Sweeping Services are not scheduled to be conducted shall be considered after regular working hours.

**2. Privately Owned Streets**

The City will extend this offer for weekly street sweeping services to Homeowners' Associations (HOA's) within the City. Any or all of the HOA's may enter into separate agreements with the Contractor. The rate that Contractor charges HOA's for sweeping services shall be consistent with the curb mile charge agreed to in the approved rate schedule with City. The Contractor shall arrange for billings and sweeping schedules with the individual HOA's directly. Residential sweeping shall be

in accordance with professional street sweeping policies and practices as stated herein.

#### **IV. REQUIRED RECORDS**

The Contractor shall maintain a record of all special service calls or services performed, listing dates, hour of the day and description of service performed.

A log report sheet giving a brief description of all routine and emergency activities shall be attached to each invoice.

The Contractor is required to keep a daily log of all streets swept as well as the driver and equipment number utilized on the route. Said log shall state the location of the streets and the number of curb miles swept and be signed by the Supervisor on a daily basis. Each month, a Monthly Report shall be prepared from the daily log. Said report shall be submitted to the City with the monthly invoice for additional sweeping services.

#### **V. EMERGENCY CALLS**

The Contractor shall maintain a local telephone number where they can be reached twenty-four (24) hours per day. This telephone number is to be made available to the Director of Public Works or his/her authorized representative and the Los Angeles County Sheriff's Department. The Contractor shall provide response to emergency calls within a two (2) hour period from the time of initial notification.

#### **VI. SAFETY ORDERS**

The Contractor shall comply with all Federal, State, County and local safety laws, ordinances and regulations.

The Contractor shall comply with all Federal, State, County and local laws, ordinances and regulations governing noise and smog emissions. All safety defects disclosed by any governmental official shall be corrected by the Contractor within two weeks of notification of said defect.

The Contractor shall comply with all local sound control and noise level rules, regulations and ordinances which apply to any work performed pursuant to the Contract Documents.

Each internal combustion engine, used for any purpose on the project or related to the project, shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without said muffler.

The Contractor shall comply with local ordinances regulating noise levels between the hours of 6:00 p.m. and 7:00 a.m. in areas within 300' of a residential property.

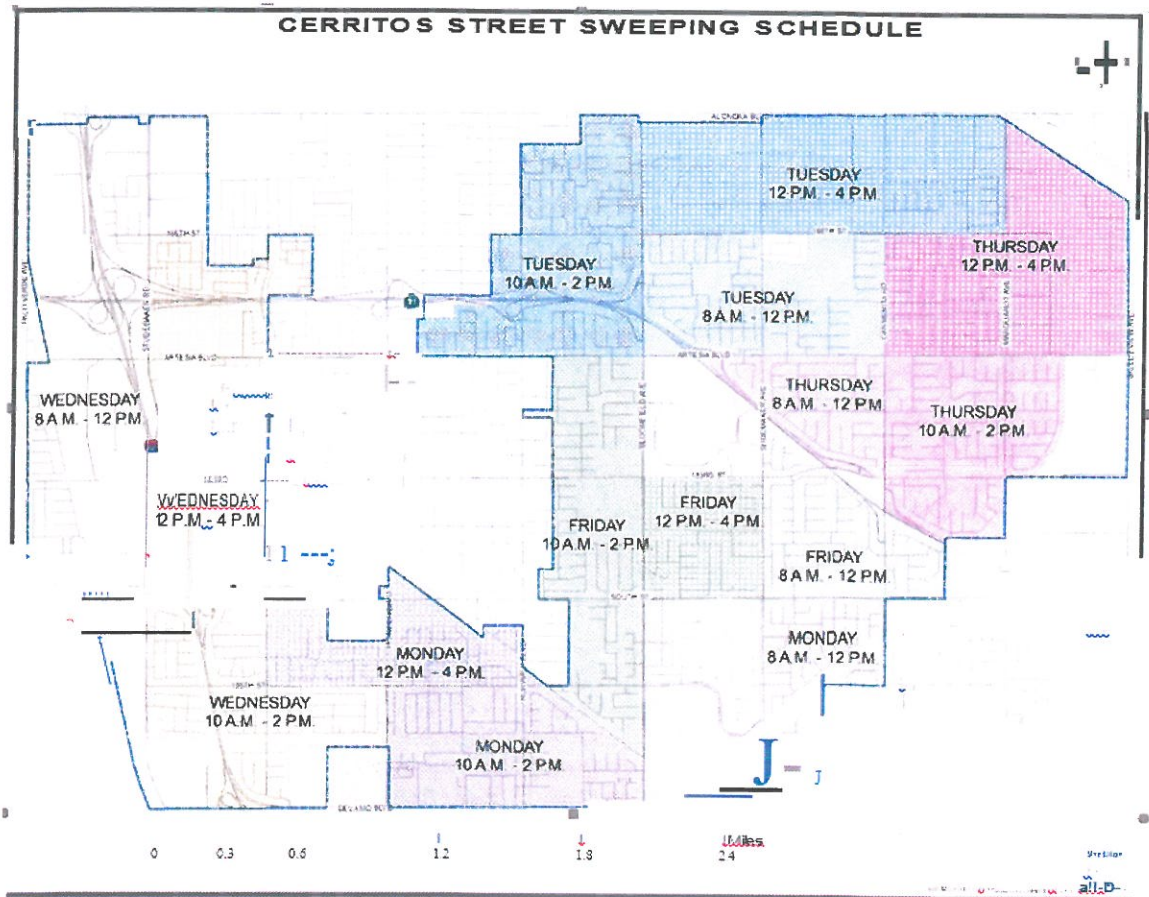
Said noise level requirement shall apply to all equipment on the project or related to the project, including but not limited to trucks or transient equipment that may or may not be owned by the contractor. The use of loud signals shall be avoided in favor of light warnings except those required by Safety Laws for the protection of personnel.

The Contractor shall provide sufficient water for use in street sweeping operations to maintain a near dustless condition. Water for this use will be made available by the City at no cost to the Contractor.

Contractor shall comply with all rules and regulations of the City of Cerritos Department of Water and Power, relating to the use of water. Failure to comply may result in the City's refusal to furnish water to the Contractor for up to the duration of the Agreement.

# ATTACHMENT 1

## PARKING RESTRICTIONS FOR STREET SWEEPING SCHEDULE





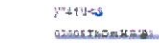


3.1 MDP DEPEND



## 35/ Collective

**Abstract**



ATTCHMENT 2

MUNICIPAL FACILITY PARKING LOTS

Ironwood Nine Golf Course

16449 Piuma





Cerritos Park East  
13234 E. 166<sup>th</sup> Street



# Cerritos Swim Center

13150 E. 166<sup>th</sup> Street

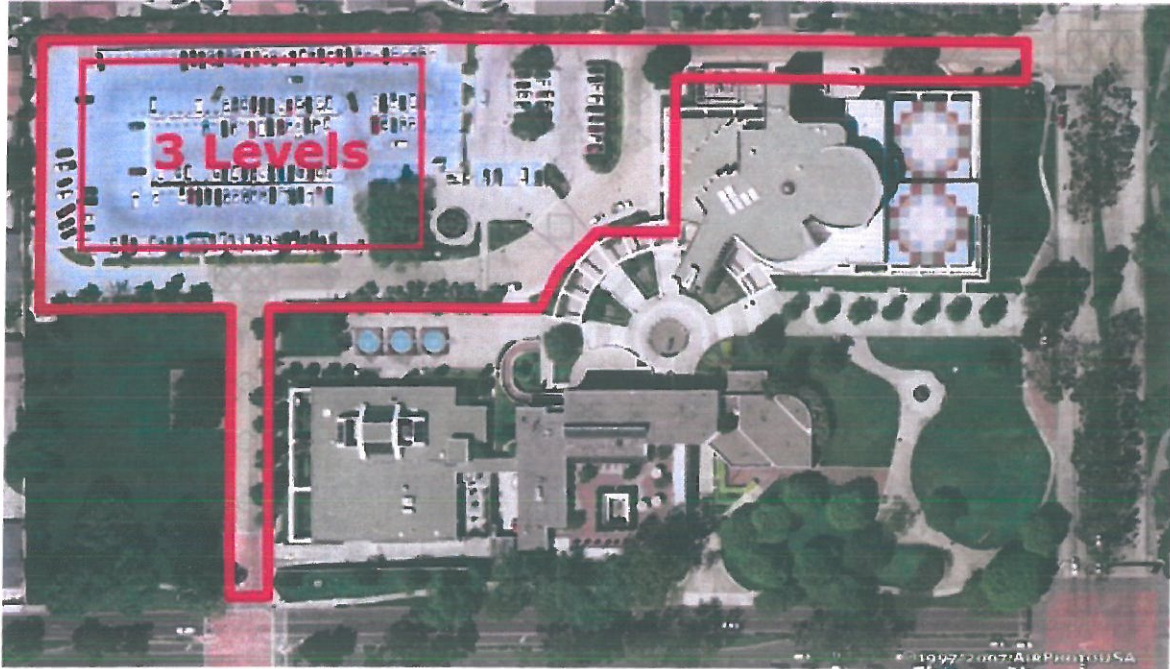




## Cerritos Sports Complex



Cerritos Civic Center  
(Library & City Hall)  
18125 Bloomfield





Cerritos Sheriff's Station  
(Underground Parking- 2 levels)  
18125 Bloomfield



Cerritos Center for the Performing Arts  
12700 Center Court Drive





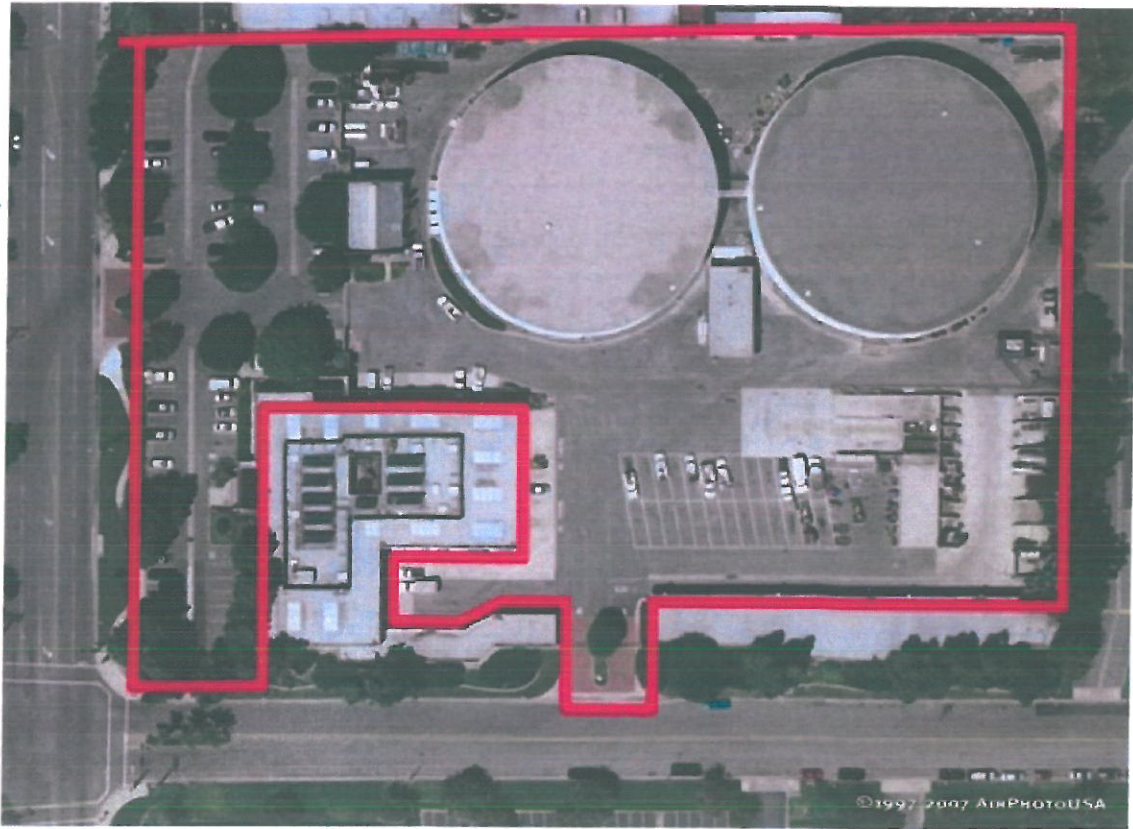
Liberty Park  
19211 Studebaker Rd.



Heritage Park  
18600 Bloomfield Ave.

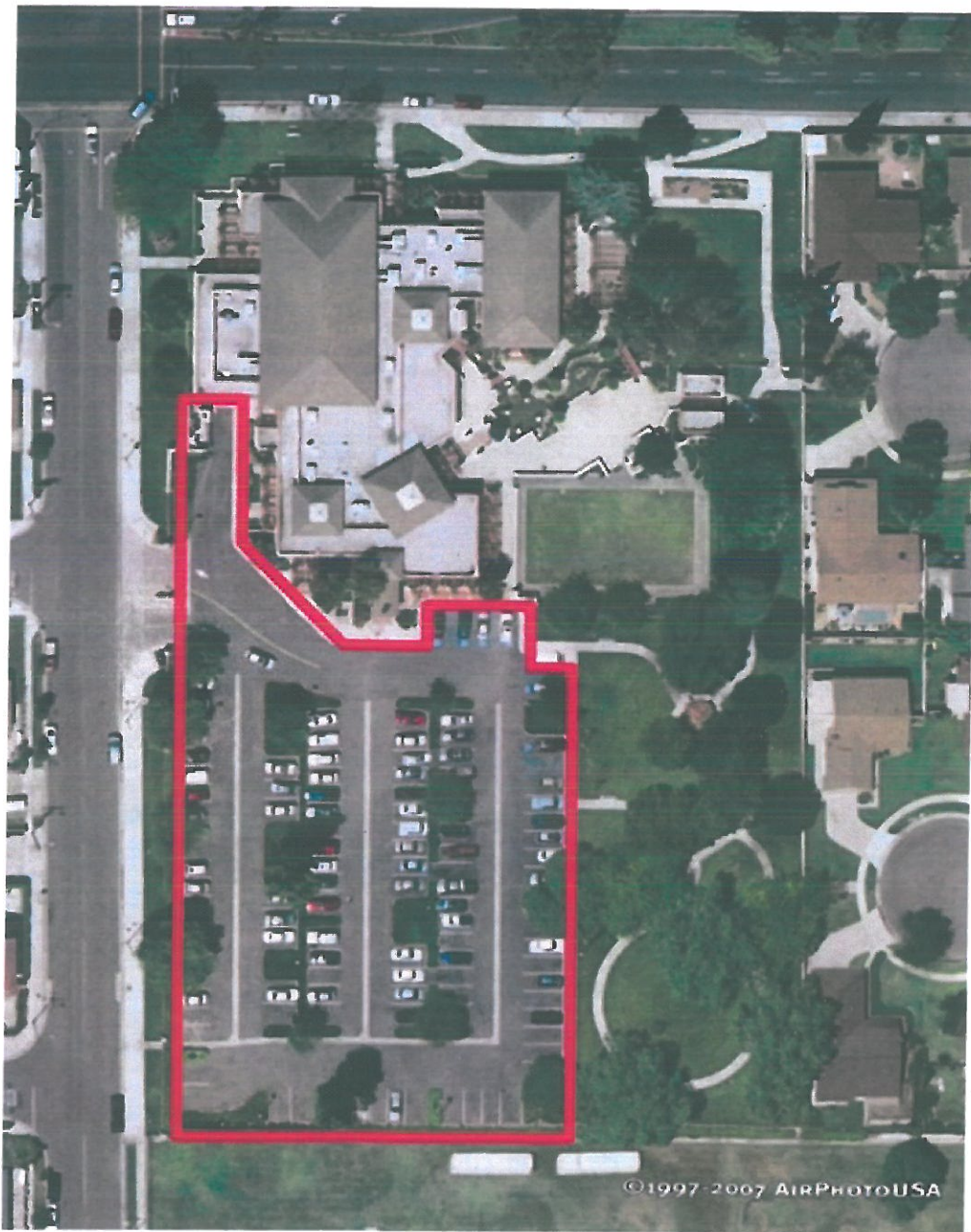


Cerritos Corporate Yard  
16540 Marquardt Ave.





Cerritos Senior Center  
12364 South Street





12880 Moore Street



12616 183rd Street







Exhibit 5

# Organics Waste Program for the City of Cerritos



Presented by:  
*CALMET SERVICES, INC.*



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## Introduction

This program has been prepared to provide the City of Cerritos a complete solution for compliance with the requirements of the State law AB 1826 adopted by the State in October, 2014. The regulation mandates the recycling of organic waste by businesses and multi-family dwellings of five units or more. The State regulation also requires cities to implement an organic waste recycling program.

The following provides a summary of the responsibilities and deadlines placed on businesses and municipalities by the law, and a description of how CalMet, as the local franchise hauler, is able to assist the City and businesses meet the requirements of the law.

## Commercial Sector's Responsibility

The law phases in the mandatory recycling of organic waste on businesses and multi-family dwellings of five or more units, based on the amount of organic waste generated by each business. The law has set three minimum thresholds of organic waste generation, each with a compliance deadline. With each compliance deadline, the threshold of organic waste generation decreases, which means that an increasingly greater proportion of the commercial sector will be required to comply.

The first organic waste generation threshold is set at eight cubic yards or less with a compliance deadline of April 1, 2016. In effect, businesses generating eight or more cubic yards of organic waste weekly are now required to arrange for the recycling of the organic waste they generate. On January 1, 2017, the threshold will be reduced to four cubic yards of organic waste per week and on August 1, 2019, the threshold will be reduced and redefined to four cubic yards of solid waste per week.

*Table 1 – Waste Generation Minimum Thresholds and Compliance Deadlines*

Compliance Deadline	Generation Thresholds for Businesses
April 1, 2016	Eight cubic yards or more of <b>organic waste</b> per week.
January 1, 2017	Four cubic yards or more of <b>organic waste</b> per week.
January 1, 2019	Four cubic yards or more of commercial <b>solid waste</b> per week.
Summer/Fall 2021	Two cubic yards of more of commercial <b>solid waste</b> per week.  (If CalRecycle determines that the statewide disposal of organic waste in 2020 has not been reduced by 50% of the level of disposal during 2014)



## Local Jurisdiction's Responsibilities

The law also requires local jurisdictions, such as the City of Cerritos, to implement an organic waste recycling program to divert organic waste generated by businesses on and after January 1, 2016.

The Organic Waste Recycling Program must contain, at minimum, the following elements;

- Identification of businesses that meet the applicable thresholds and are subject to the requirements of the law;
- Annual education and outreach to inform businesses about the law and how to recycle organics in the jurisdiction;
- Annual monitoring activities to identify those not recycling and to inform them of the law and how to recycle organics in the jurisdiction;
- Reporting progress on the implementation of the organic waste recycling program to CalRecycle (Beginning with the 2016 Electronic Annual Report (EAR), which is due August 2017 and covers calendar year 2016.

*Table 2 – Organic Waste Recycling Program Compliance Deadlines for Local Jurisdictions*

Compliance Deadline	Local Jurisdiction Program Requirements
January 1, 2016	Local Jurisdictions shall have an organic waste recycling program in place.
August 1, 2017 and Ongoing	Jurisdictions shall provide information about their organic waste recycling program implementation in the annual report submitted to CalRecycle.
Fall 2018	After receipt of the 2016 annual reports submitted on August 1, 2017, Cal Recycle shall conduct its formal review of those jurisdictions that are on a two-year review cycle.
Fall 2020	After receipt of the 2019 annual reports submitted on August 1, 2020, CalRecycle shall conduct its formal review of all jurisdictions.

## Proposed Services

This program is designed to provide the City of Cerritos with a complete solution for compliance with AB 1826. The services proposed herein include services to the City of Cerritos to ensure the implementation of an **Organic Waste Recycling Program**; and, services directed at the business community to assist them in understanding the requirements of the law and to facilitate their conformance with the law.





## Services to the City of Cerritos

CalMet will provide the City of Cerritos all the necessary services to maintain compliance with the requirements of AB 1826. The first and most important is the development and implementation of an **Organic Waste Recycling Program** which minimum requirements and deadlines are described under the heading *Local Jurisdiction's Responsibilities* in this program.

The proposed services to the City are as follows;

- Identification of businesses that are subject to the requirements of the law according to the applicable thresholds;
- Conducting an outreach campaign to inform businesses concerning the requirements of the law;
- Fielding calls from customers who are inquiring about the organic waste recycling regulations and how it might apply to them;
- Monitoring and reporting on organic waste recycling activities to identify businesses not recycling and to inform of the law and how to recycle organics.

These services are further described below.

## Identification of Businesses Subject to the Requirements of the Law



As the City's franchise solid waste services provider, CalMet has reviewed customer records and has already completed the identification of businesses that are subject to the requirement of the law. Because the law phases in the requirements over time, businesses have been classified into three tiers to coincide with the organic waste generation thresholds. This information will be monitored and periodically updated to reflect changes in subscription service levels.

*Table 3 – Number of Businesses Subject to the Law by Waste Generation Threshold*

Tier	Threshold	Number of Customers	Compliance Deadline
1	Greater than 8 Cubic Yards of Organic Waste per Week	53	April 1, 2016
2	Greater than 4 Cubic Yards of Organic Waste per Week	99	January 1, 2017
3	Greater than 4 Cubic Yards of Solid Waste per Week	390	January 1, 2019





## Conducting an Outreach Campaign



CalMet will conduct an outreach campaign to inform and educate businesses regarding the requirements of the law. The outreach campaign will include the following;

- CalMet's website will include information about the organic waste recycling law and its requirements, and will invite businesses to call CalMet for additional assistance;
- Annual mailer to include general information concerning the requirements of the law;
- Mailers targeted to the specific businesses subject to the regulations.

## Fielding Calls



The City may direct all calls from businesses inquiring about AB 1826 to CalMet. We are staffed with trained personnel to assist businesses to determine if they are subject to the requirements of the law, and if so, what steps to take to become compliant. When appropriate, our staff will offer site visitations to evaluate the customer's specific circumstances and determine which recycling activities are suited to their specific needs.

## Ongoing Monitoring & Reporting of Program Activities



CalMet will provide the City with an annual report summarizing the status of organic waste recycling activities in the within the City, including a list of businesses that are not recycling organic waste in accordance with the law, and recommendations on how to bring them into compliance.

CalMet will also provide the City with information needed to prepare the Electronic Annual Report (EAR), which is due August 2017 and covers calendar year 2016.

## Services to the Business Sector and Multi-Family Dwellings

The services proposed herein for the commercial sector are designed to assist businesses to comply with the organic waste recycling law.

Specifically, the law requires businesses that meet the waste generation threshold, to engage in one of the following organic waste recycling activities:

- Sell or donate its recyclable organic waste;
- Recycle its organic waste on site, or self-haul its organic waste off site for recycling;
- Source separate organic waste from other waste and participate in a waste recycling service that includes collection and recycling of organic waste;
- Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste.



CalMet will provide the following services to businesses and multi-family dwellings which are subject to the requirements of the law.

- Fielding calls to answer questions regarding compliance;
- Proactive outreach and site visitations to businesses that are subject to the law to review, assess and recommend options for compliance;
- Source-separated organic waste collection.

### Fielding Calls



Businesses with questions regarding the requirements of the law may call CalMet directly. Businesses will be evaluated to determine if they are subject to compliance based on their waste generation levels. If it is determined that the business is required to comply with the law, a site visit will be scheduled to provide further evaluation and advice.

### Proactive Outreach & Site Visitations



Having already identified businesses that are within the minimum generation thresholds, CalMet will take a proactive approach and contact those businesses to inform them concerning their obligations under the law and to offer support deciding now to comply.

For businesses that agree, CalMet will arrange a site visit to review the specific circumstances and propose customized options to become compliant with the law.

### Source-Separated Organic Waste Collection Service – Phase One



Businesses have various options to comply with the law. CalMet will review these options and recommend the most viable solutions. For businesses for whom participation in an organic waste collection service is advisable, CalMet has designed a source-separated organic waste collection service consistent with the current state of the industry.

The organic waste recycling industry is in its infancy and lacks the infra-structure to accommodate the expected volume of organic waste targeted for diversion by current regulation. In consideration of this reality, CalMet's is proposing to begin small and grow as the infra-structure develops. With this approach, businesses will be offered the option to subscribe to a source-separated organic waste recycling collection service that is practical and cost-effective.

### Acceptable Materials

During this initial phase, CalMet's organic waste collection service targets vegetable and green waste matter. The materials accepted at this initial stage is best defined by the phrase, "If it grows, it's good to go", which means that if it grows from the ground, it is good to go in the organic waste container.

While the current law defines organic waste to include food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste, the proposed organic waste collection service will not accept meat, dairy products and food-soiled paper waste that is mixed with food waste. The collection service will target the "back of the house", that is where the food is prepared.





### Collection Containers

Because the organic waste targeted by this service is relatively heavier than mixed solid waste, the proposed service will be provided using 65-gallon carts. The use of a smaller container will serve to control the total weight per container and allow for their physical handling and maneuvering. Customers may order as many containers as may be necessary, or for which sufficient space is available at their site.

### Collection Frequency & Methodology

CalMet will collect the 65-gallon carts using the existing side-loader automated collection trucks. We have identified 53 businesses that meet the first waste generation threshold and a total of 99 businesses that must be in compliance by January 1, 2017. We project that source-separated collection will collect approximately 17 tons per week by January 1, 2017. Because of the relatively small projected tonnage, and to keep the service cost-effective, we propose using the existing green waste collection trucks to collect the organic waste and to limit the frequency of collection to twice per week, specifically Tuesdays and Thursdays.

*Table 4 – Businesses by Waste Generation Threshold*

Tier	Threshold	Quantity of Customers	Projected Weekly Tons of Organic Waste	Compliance Deadline
1	Greater than 8 Cubic Yards of Organic Waste per Week	53	10.9	April 1, 2016
2	Greater than 4 Cubic Yards of Organic Waste per Week	99	17.1	January 1, 2017
3	Greater than 4 Cubic Yards of Solid Waste per Week	390	34.5	January 1, 2019

### Organic Waste Recycling Collection Service Expansion

The organic waste collection service as proposed may be expanded to increase the frequency of collection beyond two days per week. However, expanding the types of organic waste collected and accommodating a significant increase in organic waste volume will require the addition of collection vehicles dedicated to the exclusive collection of organic waste and reconsideration of the pricing schedule.

### Source-Separated Organic Waste Collection Service – Phase Two



During phase two, the types of organic waste accepted by the program will be expanded. This will require a dedicated fleet to collect the organic waste separately. In order to minimize the program costs, phase two will only be introduced after there is a sufficient



quantity of organic waste to warrant the additional costs of a dedicated fleet.

At the point where, (1) organic waste collection warrants the need for a dedicated collection truck and (2) a facility is capable of economically handling the organic waste stream as described below, Phase Two of the Organic Waste collection program will begin.

For the purpose of this program, collecting more than 50 tons of week of commercial organic waste or servicing more than 150 commercial customers in a week (whichever comes first) will trigger the need for a dedicated collection fleet to collect commercial organic waste. Acceptable materials will be expanded based on the processing capabilities of the selected organic waste facility, which is anticipated to include, meats, dairy and other food waste beyond Phase one's program. The same collection containers will be used as in Phase One, and the frequency of collection may be increased based on the customer's needs. Pricing for Phase Two will be based on the organic waste facility used, distance needed to travel, and facility gate rates.

## Price

CalMet will provide the services described in the Phase One at the prices listed in Table 5.

*Table 5 – Organic Waste Collection Rates*

Container Type/Size	Number of Collections per Week	
	1	2
65-Gal	\$87.20	\$174.40

This price schedule is specifically for the proposed services as Phase One. If the service is expanded to include additional organic waste, use of dedicated collection vehicles, and/or use of specific processing facilities, the pricing will require reconsideration to adjust for the costs associated with such modifications in service.

## Long-Term Solution

While this program provides for an initial phase to bring an immediate solution to compliance with the organic waste recycling law, CalMet is preparing a comprehensive, long-term solution for implementation in the near future. In anticipation of the impending organic waste recycling regulations, CalMet has already done extensive research to develop plans for handling organic waste. We have participated in round table discussions, meeting with government officials, met with various vendors including traveling to Germany to see innovations first hand.

Over the next three years, organic waste recycling is expected to undergo significant changes. While the infra-structure for organic waste recycling is currently limited, it is expected to develop to





accommodate the demand created through legislation and as cities adopt organic waste recycling policies or ordinances and implement programs.

CalMet is actively monitoring the development and availability of technologies and evaluating plans to develop facilities that can economically handle larger volumes of organic waste. CalMet will present these plans to the City as they become more concrete.

The following is a brief description of one such promising technology.

### **Sustainable Alternative Feed Enterprises (SAFE)**

One alternative that CalMet is evaluating is Sustainable Alternative Feed Enterprises (SAFE). This technology takes in food waste and produces animal feed.

The SAFE system consists of patented technologies that:

- Assist in the segregation and efficient collection of food scraps at their source.
- Collect and transport food scraps in specialized vehicles and/or containers.
- Process food scraps into a high quality and nutrient-rich mash, for use as a key ingredient in non-ruminant animal feed.
- Result in approximately 90% of the materials collected in clean loads becoming feed meal/water/FOG (Fats, Oils, Grease) and 10% becoming compost.

The most impressive feature of the SAFE system is that it works and it is already in operation. This is not a pilot program or a test program- it is in operation and producing the results listed here. The system is made up of a “Hub and Spoke” system with four “spokes” and one “hub” already up and running in Northern California.

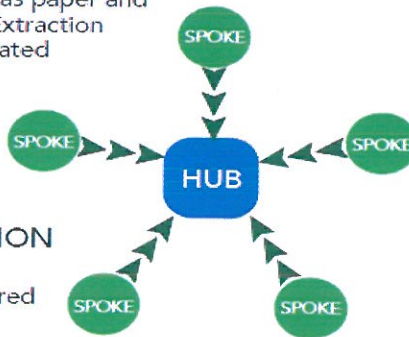
With this technology, CalMet would, at minimum, develop a “Spoke” as described in Step Two.





### **SPOKE - EXTRACTION EQUIPMENT**

Raw food scraps are converted into a mash while non-foods such as paper and plastic are expelled. Extraction equipment can be located at any suitable site including an existing transfer station or Material Recovery Facility (MRF).



### **HUB - PRODUCTION FACILITY**

SAFE mash is transferred in tanker trucks to a regional hub that houses drying and processing equipment in a clean environment. Mash is processed into three commodities.

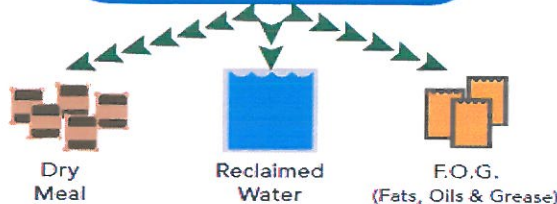
#### **STEP ONE - COLLECTION**



#### **STEP TWO - SPOKE** Extraction Facility Produces Mash



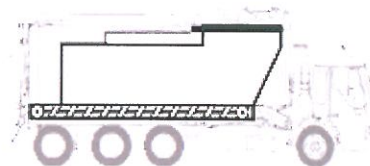
#### **STEP THREE - HUB** Production Facility Dehydrates Mash



STEP ONE: Safe patented equipment is used to facilitate the collection, and transportation of food scraps separately, resulting in an easily extractable stream with minimal contamination.

STEP TWO: SAFE extraction equipment converts raw food scraps into mash while expelling non-foods such as paper and plastics. This equipment would be located at one of our two MRFs in Paramount.

### **COMMERCIAL - FRONT LOADER**



Removable auger insert for front loader body.



Traditional Bins and/or Carts.



STEP THREE: Safe mash is transferred to a regional production facility, or “hub” located nearby in Southern California in sealed tanker trucks. This production facility houses patented drying and processing equipment in a clean environment.



Although, the auger system has a way of mining out contamination, keeping contamination down at the source is still key in producing high percentages of clean “mash” for processing.







# CALMET SERVICES, INC.

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April 6, 2017

Mr. Art Gallucci  
City Manager  
City of Cerritos  
18125 Bloomfield Avenue  
Cerritos, CA 90703

Dear Mr. Gallucci,

We would like to thank you for the opportunity to allow CalMet to serve the community of Cerritos. We are committed to providing the citizens and businesses of Cerritos the best possible collection and processing services at competitive rates. We appreciate the communication between ourselves and your staff and are grateful to be a partner with your team. Your team put in a tremendous amount of time and effort in drafting a new Integrated Solid Waste Management Agreement in which undoubtedly will be beneficial to the Cerritos community.

CalMet has reviewed the updated Agreement dated April 13, 2017, and agree to all terms, conditions and services presented therein. We look forward to beginning the new expanded services effective July 1, 2017.

Sincerely,



JB D'Souza  
Vice-President  
CalMet Services, Inc.