

SOLID WASTE MANAGEMENT AGREEMENT

between the

CITY OF COMMERCE

and

CALMET SERVICES INC.

July 1, 2014

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SOLID WASTE MANAGEMENT AGREEMENT AND SPECIFICATIONS

THIS AGREEMENT (the "Agreement") is made and entered into as of the 1st day of July, 2014 by and between CALMET SERVICES INC., a California corporation with principal offices at 7202 Petterson Ln, Paramount, California 90723 (hereinafter, "Contractor") and the CITY OF COMMERCE, a municipal corporation (hereinafter, "City").

RECITALS

WHEREAS, City has determined that it is in the public interest to provide a regular, regulated and controlled resident and city facility solid waste collection service under contract with a qualified contractor; and

WHEREAS, Contractor has performed such collection, disposal, and recycling services for green waste and co-mingled curbside recycling for City and has demonstrated its abilities and qualifications to perform such services. However, both parties hereto have agreed that it is in their best interests to execute a new agreement that would combine the terms of the existing agreements and amendments into a single agreement that and contain new terms and specifications based upon present conditions in City.

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939"), established a solid waste management planning process that imposes several requirements upon cities and other local agencies designed to promote recycling as a waste management practice; and

WHEREAS, City finds that recovery of recyclable solid waste and green waste from the residential solid waste stream generated by Residential Premises and City Facilities within the City represents the best available approach in terms of meeting the requirements of AB 939; and

WHEREAS, Contractor has represents and warrants to City that Contractor has the experience, expertise, reputation, qualifications and equipment necessary to continue to provide solid waste collection services in the City; and

WHEREAS, the City Council of City finds that the public interest, health, safety and well-being of the City and its residents would best be served by continuing to engage Contractor to perform these services pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, City and Contractor agree that this Agreement will supersede all other agreements, amendments and specifications for the collection of Residential Solid Waste, Recyclable Solid Waste and Green Waste entered into and executed prior to the date first above written.

IT IS FURTHER AGREED that the parties hereto undertake, promise and agree as follows:

1. DEFINITIONS

Whenever the following terms are used in this Agreement, they shall have the following meaning:

- A. "Bin or Bins" means those receptacles provided by Contractor for the deposit and collection of Residential Solid Waste from certain City Facilities and Multi-Family Units. Roll-off bodies are included in the definition of Bins.
- B. "Bin Service" means Solid Waste collection service provided to certain multi-family service recipients and City Facilities.
- C. "Bulky Items" means large and small household appliances, furniture, carpets, mattresses, oversized yard waste such as tree trunks and large branches if no longer than two feet (2') in diameter and four feet (4') in length, and similar large items discarded by residential service recipients.
- D. "Business Day" means a calendar day, excluding Saturday, Sunday and holidays.
- E. "CalRecycle" means the State of California's Department of Resources Recycling and Recovery.
- F. "City Facilities" are those public facilities as shown in the Exhibit A, which is attached hereto.
- G. "Consumer Price Index or CPI" means the basis for which rate adjustments may be requested based on All Urban Consumers in the Los Angeles-Anaheim Riverside area.
- H. "Construction and Demolition Waste" means discarded building materials, recyclable construction and demolition materials, wood, packaging, plaster, rock or brick, drywall, cement and rubble resulting from construction, remodeling, repair, and demolition operations. "Construction and Demolition Waste" does not include asbestos-containing materials or asbestos waste. Neither Construction and Demolition Waste nor asbestos-containing materials are within the scope of this Agreement.
- I. "Container" or "Containers" means those receptacles for the deposit and collection of Residential Solid Waste, Recyclable Solid Waste and Green Waste, excepting Residential Solid Waste from Multi-Family Units that are served by Bins. Contractor will provide 90-100 gallon Containers for deposit and collection of Residential Solid Waste, co-mingled recyclables and Green Waste.

- J. "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, as permitted.
- K. "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 City's Diversion Rate and compliance with AB 939.
- L. "Environmental Services Manager" means the official designated as such or his or her representative who shall be the administrative authority for City with regard to matters concerning Solid Waste and recycling.
- M. "Electronic Waste" means types of electronic devices, machines or other devices, including, but not limited to computer monitors, televisions, cash registers and oscilloscopes (CRT devices), computers, computer peripherals, telephones, answering machines, radios, stereo equipment, tape/video players/recorders, phonographs, CD players/recorders, calculators, iPods, cell phones, microwave ovens and other items containing electronic components or plugs, and as defined by CalRecycle.
- N. "Green Waste" means leaves, grass clippings, brush and branches generated from landscapes or gardens at Residential Premises, and incidental pieces of scrap lumber no longer than twenty-four inches (24"), separated from other Residential Solid Waste. "Green Waste" does not include stumps or branches exceeding four inches (4") in diameter and four feet (4') in length or yucca, palm fronds, and cactus.
- O. "Hazardous Waste" means any substance, waste or mixture of wastes defined as a "Hazardous Substance" or "Hazardous Waste" pursuant to applicable federal or state laws or regulations.
- P. "Material Recovery Facility" means (1) a facility licensed or permitted in accordance with the California Public Resources Code which separates secondary materials, such as mixed glass and metal containers and processes them for sale to end users; or (2) a firm that purchases and markets source-separated solid wastes and Recyclable Materials.
- Q. "Recyclable" means a commodity that is sold for compensation, or given away, but that is not discarded or deposited into the Containers or Bins for Solid Waste provided by Contractor under this Agreement. A Recyclable that is discarded or deposited into such Bins or Containers loses its character as a Recyclable and becomes Solid Waste subject to this Agreement.
- R. "Recyclable Solid Waste" means recyclable items that have been discarded into a Recycling Container as defined under this Agreement. "Recyclable Solid Waste" is a part of the Residential Solid Waste stream that can be reused or processed into a form suitable for reuse through reprocessing or remanufacture, consistent with the requirements of AB 939. As of the date of

execution of this Agreement, Recyclable Solid Waste includes newspapers, glass containers, aluminum/tin cans, P.E.T./HLD.P.E, plastic, cardboard/cartons, other plastics/metals, phone books, waste paper/junk mail and all other Residential Solid Waste which the City and Contractor may, from time to time, agree in writing are to be included in the definition of "Recyclable Solid Waste" for the purposes of this Agreement.

S. "Recycled" means the act of having processed Recyclable Solid Waste into a form suitable for reuse and having marketed those processed materials for a use consistent with the requirements of AB 939. The act of marketing does not require that revenue is generated from the processed materials.

T. "Refuse" means Solid Waste that is discarded by service recipients into Bins or Containers provided by Contractor for Disposal purposes. Refuse does not include Recyclable Solid Waste or Green Waste.

U. "Residential Premises" shall mean and include all single family dwelling units ("Single Family Units") and multi-family dwelling units ("Multi-Family Units") located within City having four or less dwelling units on any parcel of land. "Residential Premises" does not include hotels, motels, nursing homes, convalescent centers, other temporary lodgings, apartments with five or more units or any commercial, industrial or other premises.

V. "Residential Solid-Waste" means all types of Solid Waste, excluding any household products with the characteristics of Hazardous Waste which may be found to have been placed in the residential solid waste stream, including Green Waste and Recyclable Solid Waste, that originates from Residential Premises and City Facilities located within City.

W. "Sharps Waste" includes hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications derived from a household.

X. "Solid Waste" means all discarded putrescible and non-putrescible solid, and semisolid, including garbage, trash, refuse, paper, rubbish, ashes, Recyclable Solid Waste, Green Waste, Bulky Goods/discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid Waste" does not include: (a) hazardous waste or low-level radioactive waste as defined pursuant to applicable federal or state laws or regulations; (b) medical waste as defined pursuant to applicable federal or state laws or regulations; (c) abandoned vehicles or parts thereof; (d) Construction and Demolition Waste; or (e) asbestos-containing materials.

Y. "Solid Waste Collection Services" means the collection, transportation, recycling, composting and disposal of Solid Waste in accordance with this Agreement, City ordinances, AB 939, and other applicable state and federal law.

Z. "Universal Waste" means all waste defined by Title 22, Subsections 66273.1 through 66273 of the California Code of Regulations, which typically include batteries, fluorescent lights, and compact fluorescent bulbs.

2. SCOPE AND MANNER OF WORK

City hereby grants to Contractor, for the term set forth below (including all extensions or renewals thereof), the sole and exclusive duty, right and privilege to operate and conduct the collection and disposal of all Residential Solid Waste, which includes Recyclable Solid Waste and Green Waste, generated from Residential Premises and City Facilities within the corporate limits of City, as its boundaries are now constituted or hereafter amended, as identified in Exhibit A.

Contractor shall provide for the collection of all Residential Solid Waste, which includes Recyclable Solid Waste and Green Waste, generated from Residential Premises and City Facilities within the City. Solid Waste and Recyclable Solid Waste shall be deposited by the service recipient in Contractor-provided Containers or Bins placed at curbside or, in the case of Bins, at the designated location for collection by Contractor's automated collection vehicles on a designated collection day occurring at least once per week.

Contractor shall offer a three-container fully automated collection service for residential customers including multi-family up to and including four units where feasible.

All services provided hereunder shall be done and performed promptly in a good, thorough, workman-like, and efficient manner to the complete satisfaction of City.

3. TERM OF AGREEMENT

The term of this Agreement shall be for a period of five years commencing July 1, 2014 through midnight June 30, 2019.

4. ANNUAL CONTRACT REVIEW

This Agreement will be reviewed annually by City and Contractor during the term of the Agreement with respect to the service and rate structure. City and the Contractor will negotiate in good faith to reach an equitable adjustment in the service and/or contract rates. If an agreement cannot be reached that is mutually satisfactory to both parties, the City Council shall decide the matter and that decision shall be final.

5. EQUIPMENT

All equipment used by Contractor to service residential customers for solid waste and recycling under this Agreement shall be alternative fuel equipment as mandated by the Southern California Air Quality Management District Rule 1193.

Contractor shall, during the term of this Agreement, maintain all motor vehicles utilized in providing the services required by this Agreement, in Good Condition. "Good Condition," for the purpose of this paragraph shall mean that:

- a. each such vehicle complies with all applicable provisions of the California Vehicle Code;
- b. if the vehicle is an open truck or a truck using a roll-off body, the load, when being transported, shall be collected by a water-tight tarpaulin, securely tied and fastened to the vehicle so as to prevent refuse from being blown or dislodged from the truck;
- c. all vehicles utilized and bins supplied shall be continuously maintained in a watertight condition;
- d. all vehicles be steam and/or water cleaned not less than once per week and all vehicles shall be painted periodically, which shall include all necessary body work so that the vehicles do not become unsightly;
- e. each vehicle shall carry a broom and a shovel which shall be used for the removal of any refuse spilled from the vehicle, and all spills of refuse occurring during the collection process to be cleaned up, and forthwith, by Contractor's employees; and
- f. City has the right to examine and inspect the Contractor's vehicle maintenance records and equipment at random for compliance with the California Vehicle Code. Within one week of the inspection, Contractor shall report to City the status of any identified repair work needed.

All vehicles and equipment used in the collection of Solid Waste, if kept within the boundaries of City, shall at all times when not in use in the collection of Solid Waste, be kept on private property in the appropriate zone and not on streets or other public right-of-ways.

Contractor shall have a backup truck available to City in the event the primary truck is unable to collect and dispose of the Solid Waste.

6. CONTAINERS

City Facilities Containers. All City Facilities Bins supplied and maintained by Contractor shall be the type, size, and number of Bins determined to best fit the needs of the respective City facility they serve.

Bins shall be metal and shall be so constructed that no liquid shall leak from said containers. Bins and roll-off bodies shall be painted Contractor's standard color and repainted as required to maintain an attractive addition to the community. All Bins and roll-off bodies shall be steam cleaned at least once monthly or more often if necessary, as determined by City.

Residential Containers. Contractor will supply each single-family Residential Premises in City with three Containers that will be owned by Contractor. A 96-gallon Container will be supplied for deposit and collection of Solid Waste (Recyclable Solid Waste and Green Waste). The Containers will be color coded per the City's specifications, with each container a different color as follows: black for solid waste, blue for co-mingled recycling, and green for greenwaste. Each Container will have a lid and wheels and a handle so that the Container may easily be tipped and rolled to the curb for collection. Each Container will be stamped with a serial number linking it to a specific residence for easy identification and tracking purposes. All Containers will be collected using automated collection vehicles.

Contractor shall be responsible for container repair, maintenance, and replacement.

Contractor shall replace any factory-flawed Containers supplied by Contractor pursuant the foregoing paragraph that are covered by the manufacturer's Container warranty agreement. Contractor shall also replace any such Containers that are damaged as a result of mishandling by Contractor. Contractor shall remove graffiti or replace Container that is marked with graffiti.

For a service recipient that might need a Container different from the size to be provided by Contractor, Contractor will provide those Containers at no additional cost provided that the service recipient justifies the need for each smaller Container replacing the standard set of 3 Containers. Additional Containers that exceed the standard set of 3 Containers shall be billed to residents directly by Contractor at a cost of \$5.00 per container.

Multi-family Residential Premises shall receive Solid Waste Collection Services utilizing either Containers or Bins, as determined on a case-by-case basis based on the individual needs of the service recipient, including residential recycling services.

Contractor shall replace all Containers upright, in the same location as the Container was placed for collection. Containers shall not be thrown from the truck or in any way broken, damaged or roughly handled. The City reserves the right to withhold compensation under this Agreement until any claim for Containers owned by the service recipient that are damaged by negligent handling by the Contractor, has been paid or adjusted with the owners thereof.

Contractor shall be responsible for promptly removing any Solid Waste that may drop from a Container or vehicle during the collection process. In the event the City is required to remove Solid Waste from any Residential Premises or City Facilities due to the fault of the Contractor, the cost of such removal as determined by the Director of Public Services shall be deducted from payment due to Contractor under this Agreement.

7. SUPERVISION

Performance of each of the provisions of this Agreement shall be under the supervision of City to see that the Solid Waste Collection Services are carried out by the Contractor as contemplated

in City Ordinances and this Agreement. Contractor shall faithfully and regularly collect and remove from the City Solid Waste in accordance with these specifications. The work shall be done in a prompt, thorough, lawful, and workmanlike manner to the satisfaction of City. Should the Contractor fail to provide Solid Waste Collection Services as required by this Agreement, City may collect the same and dispose thereof and Contractor shall be liable for the expense incurred. In addition to any other lawful means of effecting reimbursement from Contractor, such expense may be deducted by City from the money due or which may become due to Contractor.

8. COMPLAINT PROCEDURE

Contractor shall be obligated to take all steps reasonably necessary and required to satisfy customer service complaints. Contractor shall maintain a complaint monitoring system, in a form approved by the City Director of Public Works and Development Services. Where a particular complaint cannot be amicably resolved, the matter shall be referred by Contractor or by the customer to the Director. The Director or his/her designee shall take such steps as may be necessary to conduct an adequate investigation of the circumstances surrounding such complaint and resolve the dispute. The Director's decision may be appealed to the City Administrator. The City Administrator, upon receipt of a written request for the resolution of such a dispute between Contractor and the Director, shall review all relevant written material submitted by the Contractor and the Director, and based thereon, the City Administrator shall resolve the dispute. The City Administrator shall promptly serve a copy of his/her written determination on the Contractor and the Director. The City Administrator's determination may be appealed to the City Council. Contractor may pursue any legal remedies it may have regarding such matters in a court of law, after completion of the Complaint Procedure set forth in this section.

9. FREQUENCY OF SOLID WASTE COLLECTION SERVICES

Contractor shall collect all Solid Waste generated from Residential Premises at least once each week, unless prevented from doing so by a Force Majeure event as described in Section 23 of this Agreement. Contractor shall collect all Recyclable Solid Waste and Green Waste on the same day of the week as Solid Waste collection service is provided. City Facilities collection shall be as indicated in Exhibit A.

Incidental or occasional additional collection service to a Residential Premise can be scheduled by the service recipient calling Contractor.

10. SCHEDULES AND ROUTES OF COLLECTION

Contractor is not required to collect Solid Waste on Sundays, on holidays celebrated by the City or established by a labor agreement between Contractor and its employees. The collections for each such holiday shall be made within the day after such holiday, moving the remaining schedule for the week one day later than the normal pick-up day except that there shall be no collection on Sundays in any event.

Contractor shall not collect Solid Waste from any Residential Premises before 6:00 a.m. or after 6:00 p.m. without written permission from the Director of Public Works and Development Services.

Contractor for each given day shall maintain such schedules and routes of collection as are mutually acceptable to Contractor and the Director of Public Works and Development Services.

11. COLLECTION AND OWNERSHIP OF SOLID WASTE

A. Solid Waste Collection Service from Residential Premises shall normally be made from the curb along the street or easement in front, or the alley or easement in the rear, of each Residential Premises. Where paved alleys having safe and convenient access to streets exist in the rear of Residential Premises, collections shall be made from such alleys. Contractor may agree with anyone in control of any property for the collection at a location other than as specified above, but shall also notify the Director of Public Services in writing of such agreement.

B. Solid Waste which is properly set out for collection at a Residential Premises or City Facilities on the regularly scheduled collection day shall belong to the Contractor from the time it is set out for collection.

C. Contractor or its agents shall not be required, under any circumstance, to enter upon private property for the purpose of collecting Solid Waste.

12. MANNER OF COLLECTION

Contractor shall furnish all labor, material and equipment necessary to collect, and shall collect all Solid Waste generated from Residential Premises and City Facilities within the present and future limits of City in accordance with the terms of this Agreement. City will require all such Solid Waste capable of being placed in a Container to be placed therein, except that brush, tree trimmings, logs and wood products need not be placed in a Green Waste Container if cut to four feet (4') or less in length and to sixteen inches (16") or less in width, depth or diameter and securely tied with cord or wire, and placed by said Container.

Contractor shall not be obligated and may refuse to collect Recyclable Solid Waste from a recycling Container issued or belonging to any service recipient who, after three written notices, fails to segregate other Solid Waste from recyclables placed in the recycling Container, or otherwise misuses same.

13. BULKY ITEM COLLECTION

A. Contractor shall provide bulky item collection service to all residential customers as assigned by this Agreement. Contractor may instruct customers to call to schedule a collection and provide Contractor with a minimum 24 hours' notice. Collection shall take place on the customer's regularly scheduled trash collection day.

Contractor shall collect all bulky items including electronic waste. Hazardous waste such as paint, waste oil or anti-freeze will not be collected. Contractor shall offer residents free sharps containers, which residents must dispose of themselves at a designated site for such waste such as a pharmacy, a permanent household hazardous waste site or a Los Angeles County household hazardous waste mobile event.

B. Contractor shall deliver and collect bins and roll-off boxes as necessary to City-designated locations for two (2) Citywide Neighborhood Clean-Up Events per calendar year and dispose of items collected at no additional charge.

C. Contractor will provide Solid Waste Collection Services at the City Facilities identified in Exhibit A at no charge. The facilities identified in Exhibit A may be amended from time to time by mutual written agreement of the parties.

D. Included in the rates set forth in this Agreement, Contractor will provide residents and community groups within City with special event and charitable event recycling containers, collection services as well as bulky item collection, and Holiday tree recycling.

14. ROLL-OFF AND TEMPORARY BIN SERVICE

Roll-off and temporary bin service for residential construction and demolition projects are not included in this Agreement. Residents are free to select from among the licensed commercial haulers operating in City.

15. MARKETING AND SALE OF RECYCLABLE MATERIALS

Contractor shall be responsible for the marketing and sales of all recyclable materials collected from residential premises serviced under this Agreement. Contractor may retain revenue from the sale of such recyclable materials to help offset the collection and processing of the program. Contractor agrees to register with the State of California for the individual commingled rate refund program.

16. HOUSEHOLD HAZARDOUS WASTE

Contractor shall not collect, transport to a disposal site, cause or suffer to be transported to a disposal site, or in any way process Household Hazardous Waste (HHW) pursuant to this Agreement. Contractor's employees working the collection routes in the City shall be trained to recognize HHW and shall not pick up Solid Waste Containers when HHW is discovered in said Containers. Contractor's employees shall affix a written notice, on a form approved by City, on any Container containing HHW.

The operator of Contractor's Materials Recovery Facility shall prepare and implement a Hazardous Waste Load-Check Program to detect and separate HHW from other Solid Waste and to ensure its legal and proper handling, storage, transportation and disposal, in the event that HHW

materials are inadvertently collected and transported to Contractor's Materials Recovery Facility. Contractor shall report to City the amounts collected and how they were disposed of. For purposes of this Agreement, and the preparation of any hazardous waste manifests, Contractor agrees that it, and not City, shall be regarded for all purposes as the owner of any HHW inadvertently collected by Contractor.

17. COMPENSATION

- A. Rate. City will pay Contractor monthly for work and services rendered in accordance with the City-approved rate schedule for approximately 2,655 residential units serviced at a total monthly rate of \$54,328.95, except for planned communities such as Vista Del Rio where Contractor bills residents and/or homeowners' associations directly for payment of services rendered.
- B. Rate Adjustment. Contractor may request a rate adjustment review annually in writing prior to April 15th for the period commencing the following July 1st. City will consider the request and complete the process by June 1st, provided all required information has been submitted. Rates may be adjusted annually per the Consumer Price Index (CPI) for All Urban Consumers in the Los Angeles-Anaheim-Riverside area for the previous 12-month period ending March 1st of each year for which information is received by the U.S. Department of Labor in the manner described above. An adjustment pursuant to this section shall not exceed five percent (5%) per year. Any adjustment shall not be effective unless approved by the City Council.
- C. Tipping Fee Adjustment. Contractor may request an adjustment to the solid waste rate structure based upon an increase in tipping fees in the manner prescribed above. Any such increase shall be applied only to that portion of the rates that which comprise tipping fees. Such rate adjustment for tipping fee increases shall not be requested if the overall effect of the increase in tipping fees is less than one percent of Contractor's rate for any year. Contractor shall make an adjustment upon the most recent tip fee increase.
- D. Contractor shall not, nor shall it permit any agent, employee or subcontractor employed by it to request, demand or accept, either directly or indirectly, any compensation or gratuity from any public or private source for the collection of Solid Waste or for the performance of any aspect of this Agreement.
- E. Beverage Container Recycling Fund. Contractor shall retain all revenue obtained from the Beverage Container Recycling Fund, as administered by CalRecycle to help offset the collection and processing costs of the City Recycling Program.
- F. When requested by City, Contractor shall submit to City the most recent audited annual financial statement and year-to-date financial statement pertaining to its City residential operations, including annual gross receipts. The City reserves the right to conduct a full financial audit of this Agreement by an auditor selected by City.

18. NEWLY ADDED RESIDENTIAL UNITS

Contractor shall provide full Solid Waste Collection and recycling Service under this Agreement in newly constructed residential areas in City and, to the extent permitted by law, residential areas annexed to City as soon as such service is required. The per unit compensation, if any, in existence at the time of completion of the final unit or annexation, as the case may be, will be the initial charge to City for services to Residential Premises in such expansion areas pursuant to this Agreement.

19. BONDS AND INSURANCE

A Contractor shall obtain and maintain in full force and effect throughout the entire term of this Agreement a Broad Form Comprehensive General Liability and Automobile Liability Insurance (occurrence) policy. Said insurance shall protect Contractor and City from any claim for damages for bodily injury, including accidental death, as well as from any claim for property damage which may arise from operations performed pursuant to this Agreement, whether such operations be by Contractor itself; or by its agents, employees and/or subcontractors as follows:

Bodily Injury Liability - Auto

\$5,000,000 each person

\$5,000,000 each occurrence

Bodily Injury Liability - Other than Auto

\$5,000,000 each person

\$5,000,000 each occurrence

\$5,000,000 aggregate products

Property Damage Liability - Auto

\$5,000,000 each occurrence

\$5,000,000 aggregate operations

\$5,000,000 aggregate protection

\$5,000,000 aggregate contractual

\$5000,000 aggregate products

B. Contractor shall obtain and maintain in full force and effect throughout the entire term of this Agreement full workers' compensation insurance in accord with the provisions and requirements of the Labor Code of the State of California. Endorsements that implement the required coverage shall be filed and maintained with the City Clerk throughout the term of this Agreement. The policy providing coverage shall be amended to provide that the insurance shall not be suspended, voided, canceled, 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. The policy shall also be amended to waive all rights of subrogation against City, its elected or appointed officials, employees, or agents for losses which arise from work performed by the named insured for City.

C. Contractor shall advise City of any damage to real property that occurs in the performance of this Agreement

D. Copies of the policies or endorsements evidencing the above required insurance coverage shall be filed with the City Clerk. The following language is required to be made a part of all of the insurance policies required by this Agreement:

1. "The City of Commerce, its employees, agents, franchisees, officers and officeholders are hereby added as insureds as respects liability arising out of activities performed by or on behalf of CalMet Services Inc.

2. "This policy shall be considered primary insurance as respects any other valid and collectible insurance the City may possess including any self-insured retention the City may have, and any other insurance the City does possess shall be considered excess insurance and shall not contribute to it."

3. "This policy shall act for each insured, as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company."

Contractor shall provide thirty (30) days prior written notice by certified mail, return receipt requested to the City in the event of suspension, cancellation, reduction in coverage or in limits or non-renewal of this policy or whatever reason. Such notice shall be sent to the City Administrator, City Attorney and City Clerk.

E. The insurance required by this Agreement shall be with insurers which are Best AV rated, and which are California admitted. The limits of such insurance coverage, and companies, shall be subject to review and approval by the City Administrator every year and may be increased at that time and match the coverage provided by the City's own liability insurance policy. The City shall be included as a named insured on each of the policies, or policy endorsements.

F. City and Contractor agree to meet annually in the second calendar quarter of each year to discuss ways to reduce their respective potential liabilities to third parties.

G. City shall not, nor shall any officer, officeholder or employee thereof be liable or responsible for any accident, loss, or damage happening or occurring in the performance of the work to be performed pursuant to this Agreement. Contractor shall protect, defend, indemnify and hold harmless City and its officers, officeholders and employees in the event of any and all liability arising therefrom.

H. Contractor shall have City named as additional insured on all liability insurance policies required by this Section XIV, at no expense to City. The copies of the insurance policies submitted by Contractor shall evidence compliance with this requirement.

I. The Contractor shall file with the City a faithful performance bond, or cash of its equivalent, in the amount of \$100,000, to be in a form acceptable to the City Attorney, to insure the Contractor's performance of this Agreement; such security shall be conditioned upon the faithful performance of this Agreement. If a surety bond is used as security it shall provide for cancellation by the surety upon not less than 30 days prior written notice delivered to the City, except that such cancellation shall not release the surety from any liability accruing as the result of a default by the Contractor prior to the effective date of cancellation of the bond.

J. In the event of cancellation of a bond, the Contractor shall replace the bond with acceptable security prior to the effective date of such cancellation.

K. In the event that at any time during the period of this Agreement Contractor does not have on file with the City an effective faithful performance bond or acceptable equivalent, the City Finance Director shall withhold all payments due to Contractor for services rendered under the terms of this Agreement until such a faithful performance bond or equivalent is furnished as required. Such failure shall also be deemed to be a breach of this Agreement pursuant to the provisions of Section 23 hereof.

20. ASSIGNMENT; SUBCONTRACTORS

This Agreement shall not be assigned or transferred without the written consent of City nor shall any subcontractor be recognized or dealt with by City as any of the persons chargeable with the enforcement of this Agreement. In the event that City authorizes a subcontractor to perform any of the services herein, Contractor shall at all times be personally responsible for the performance of the conditions of the Agreement.

21. CHANGE OF CONTRACTOR'S NAME

City hereby acknowledges that Contractor will continue using the trade name CalMet Services Inc. Contractor represents and warrants to City that any potential future name change is simply a change of name and does not indicate an assignment, transfer or subcontracting of this Agreement. Contractor agrees to give City prompt written notice in the event that the change is implemented and to comply with City's business license policies and procedures.

22. INDEPENDANT CONTRACTOR

Contractor's relationship to City hereunder shall be that of an independent contractor and it is specifically agreed that the Contractor shall not, for any purpose, be deemed an employee of City. Contractor shall not act nor be deemed an agent, employee, officer or legal representative of City. Contractor shall not at any time or in any manner represent that it or any of its agents, employees, officers or legal representatives are in any manner agents, employees, officers or legal representatives of City. Contractor has no authority to assume or create any commitment or obligations on behalf of City or bind City in any respect. This Agreement is not intended to and does not create the relationship of partnership, joint venture or association between City and Contractor.

23. TERMINATION CLAUSE; FORCE MAJEURE

The breach of any of the terms and/or conditions of this Agreement on the part of Contractor shall be grounds for cancellation by City. Upon first giving Contractor thirty (30) days- notice in writing that the services of Contractor are not satisfactory, City shall cause the Department of Public Works and Development Services to make a report of the services of Contractor in writing to City Council. Prior to the effective date of such termination, Contractor may appear before the City Council and state its position concerning its services and any report thereof made to the City Council. Upon such termination, City shall be at liberty to relet the work required by this Agreement to other parties or to undertake directly the performance of said work. In either case, Contractor and his surety shall be liable for any excess cost occasioned to City over and above that which would have been due and payable to Contractor under the terms of this Agreement; provided, however, that the surety upon any faithful performance bond shall not be liable for more than the total amount of liability assumed under that bond. Termination of this Agreement as herein provided shall not terminate, suspend or affect the liability of Contractor or the surety upon the bond.

Failure to comply with the terms of these specifications relative to the solid waste management services rendered pursuant to this Agreement on the part of Contractor by reason of major disaster, epidemic or other great emergency within City, shall not constitute a breach of the Agreement; provided, however, that in no event shall mere difficulty, inconvenience, or expense to Contractor be construed as beyond the ability of Contractor to perform.

24. LAWSUITS: INDEMNIFICATION

Contractor shall indemnify and hold City and its officials, officers, agents and employees harmless from and against any and all liabilities, losses, damages, costs and expenses City and their respective officials, officers, agents and employees hereafter may suffer in connection with any claim, action, or right or action (at law or in equity) because of any injury (including death) or damage to person or property proximately caused by any negligent acts, errors, or omissions by Contractor, its employees or its agents in the performance of the services hereunder. Contractor shall not be liable to the extent that any liability, loss, damage, cost, and expense is caused solely from an act of negligence or willful misconduct by City or its respective officials, officers, employees or agents. Upon demand, Contractor shall promptly provide a defense, with an attorney approved by City, to such claims, actions or right of action (at law or equity) and shall promptly pay for all associated and resulting costs, damages, settlements, penalties, judgments, fees and expenses, including attorneys' fees and costs.

25. COMPLIANCE WITH ALL LAWS

A Contractor agrees to conform to and abide by all of the rules, regulations and Ordinances of the City governing the solid waste management services rendered hereunder.

B. Contractor agrees to conform to and abide by all the valid rules, regulations and Ordinances of any City through or to which Solid Waste may be hauled, or disposed of, governing the collection hauling and disposal of said Solid Waste.

C. Contractor agrees, when Solid Waste is hauled to or through the unincorporated territory of any county, to conform to and abide by all the rules, regulations and Ordinances of any county jurisdiction managing the collection, hauling and disposal of said Solid Waste.

D. Contractor agrees to abide by all the laws of the State of California governing the collection, hauling, processing, and recovery or disposal of Solid Waste.

E. Contractor shall obtain and maintain throughout the term of this Agreement all permits, licenses and approvals necessary or required for Contractor.

26. NOTICES

All notices required or contemplated by this Agreement shall be personally served, sent by electronic mail or mailed, postage prepaid and return receipt requested, addressed to the parties as follows:

To City:

City of Commerce
2535 Commerce Way
Commerce, California 90040
Attn.: Jorge Rifa, City Administrator

To Contractor:

CalMet Services Inc.
7202 Petterson Ln.
Paramount, CA 90723
Attn: Bill Kalpakoff, General Manager

or to such other address as the parties may designate in writing.

Notice shall be deemed received three days after its mailing to the above address or upon actual receipt as indicated by return receipt, whichever is earlier. Personal service shall be deemed received the same day personal delivery is effected.

27. ATTORNEY'S FEES

In the event of any litigation arising out of this Agreement, the prevailing party in such litigation shall be entitled to an award of attorney's fees and costs in such reasonable amount as may be fixed by the court.

28. INTEGRATION

This Agreement supercedes and cancels any and all previous negotiations, arrangements, agreements, and understandings, if any, whether oral or written, between the parties, and none shall be used to interpret this Agreement.

29. AMENDMENTS

City and Contractor may amend this Agreement by a written instrument executed by a duly authorized officer of each party

30. WAIVER

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

31. GOVERNING LAW; VENUE

This Agreement is entered into and is to be performed in the State of California. City and Contractor agree that the law of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Central District of California.

32. NO CONSTRUCTION OF AGREEMENT AGAINST ANY PARTY.

Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, it shall not be construed against any party on the basis such party drafted this Agreement or any provision thereof.

IN WITNESS WHEREOF, the parties hereto have each executed or caused to be executed this Agreement to be executed by the day and year first above written.

CITY OF COMMERCE

By. 
Tina Baca Del Rio, Mayor

CALMET SERVICES INC.

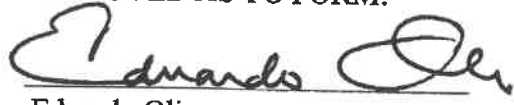
By. 
Bill Kalpakoff, General Manager

ATTEST:



Lena Shumway,
City Clerk

APPROVED AS TO FORM:



Eduardo Olivo,
City Attorney

Exhibit A
to
Solid Waste Management Agreement
Between the
City of Commerce and CalMet Services Inc.

City Facilities

Facility Name	Facility Address
Bandini Park	4725 Astor
Teen Center	5107Astor
Library	2269 Atlantic
	6971 Bandini
Rosewood Park	2433 Commerce Way
City Hall	2535 Commerce Way
City Hall-Recycle	2535 Commerce Way
Senior Center	2555 Commerce Way
Greenwood Library	6134 Greenwood
North Annex	5550 Harbor
North Annex – Recycle	5550 Harbor
Library	5555 Jillson
Transportation	5555 Jillson
Central Receiving	5625 Jillson
Central Receiving	5625 Jillson
Central Receiving - Recycle	5625 Jillson
Bristow Park	1466McDonnel
Veterans Park	6364Zindell

Exhibit B

Scope of Work for Source Reduction and Recycling Compliance

Overview

Contractor shall furnish all labor, supervision, material, permits, licenses, insurance, capital and equipment necessary to provide recycling services for greenwaste and co-mingled curbside recycling and automated collection once per week from all residential units up to and including 4 units. Collection shall be on the same day as refuse collection, but not necessarily at the same time of day as refuse collection.

Responsibility for Meeting Regulatory Compliance

Contractor shall assist the City in meeting its goals contained within the City's Source Reduction and Recycling Element (SRRE) and AB 939 as amended by SB 1016 (9/26/08) for the residential segment served by Contractor. These responsibilities include the monitoring of recycling levels of residents, public education efforts intended to increase and maintain source reduction and recycling activities, and reporting to the City diversion amounts of all residential recycling programs on a monthly basis.

Contractor shall recycle and/or divert from landfill sufficient waste to ensure that the City meets current California recycling requirements. Diversion includes recycling, transformation, and other forms of converting solid waste into energy to the extent that such diversion is accepted by the State toward meeting the City's diversion goal under AB 939 and its amendments. Contractor shall only be considered to have met this requirement under this Agreement if the City's annual report to CalRecycle shows a greater than 50% diversion rate and if CalRecycle approves the City's reports with a greater than 50% diversion rate.

During the term of this Agreement, should CalRecycle increase the minimum diversion requirements, Contractor agrees to meet and or surpass the minimum diversion requirements set by CalRecycle. Liquidated damages shall be assessed for failure to meet these goals.

Recycling Reporting System

Contractor shall establish a standard accounting system and forms to submit monthly diversion reports to the City. The City will approve the format of such reports prior to implementation. The reports shall include tons of recyclable materials collected per month reported by material type, set out rate, and disposition of the recyclable materials.

Public Education

Contractor shall provide information to its customers on the City's residential recycling programs and refuse services in a bi-annual publication provided to residents. The intent of the publications are to promote source reduction, recycling and green practices at home and to advise customers of programs and services provided to them to meet California recycling goals and City green practices. All educational material regarding the City's Recycling Program shall be subject to City approval. A copy of each publication shall be emailed to the City in advance of providing the residents with the publication.

Recyclable Materials

Contractor shall collect all recyclable materials including metal, plastics, paper, greenwaste, and e-waste as deemed recyclable by CalRecycle.

Recycling at City Facilities

Contractor shall provide recycling services and containers for recycling at City facilities as listed in Exhibit A.

Christmas Tree Recycling

Contractor shall provide Christmas tree recycling services as part of the residential curbside recycling program.

City-Sponsored Events

Contractor shall provide Solid Waste and Recycling Collection and Disposal services for City-sponsored events at no additional cost to the City. This shall include providing containers (bins, roll-off boxes, and/or automated containers clearly labeled for waste or recycling and cardboard waste boxes with liners.

Customer Service

Contractor shall train its customer service representatives to provide City-specific recycling program and refuse service information.