

CITY OF WEST SACRAMENTO
Hauling Permit Terms and Conditions

Pursuant to Title 8, Chapter 8.08, of the West Sacramento Municipal Code, the City Manager or his designee sets forth the following rules and regulations as terms and conditions for granting a hauling permit.

1. TERM OF HAULING PERMIT:

The permittee, hereinafter called "the Permit Holder", does hereby covenant and agree to collect, transport, and dispose of refuse, and collect, transport and recycle organic waste and recyclable waste accumulated within the City of West Sacramento, hereinafter called "the City", in accordance with the laws of the State of California and ordinances, resolutions and specifications of the City governing the collection, transportation, recycling and/or disposal of materials, commencing on the date the Hauling Permit, hereinafter called "permit", is signed by an authorized representative of the City and continuing for three (3) years or until terminated by the City upon written notice. Should the permit be terminated for any violation of its terms, and/or any ordinances regulating the collection, transportation, recycling and/or disposal of materials, the Permit Holder will be ineligible to reapply for six months from the date of termination. The permit may be extended upon mutual written consent between the Permit Holder and the City.

2. NONEXCLUSIVENESS OF HAULING PERMIT:

It is agreed that the Permit Holder shall not have the exclusive right during the term of this permit to collect, receive, transport, segregate, recycle, and dispose of any and all refuse generated by residential and commercial services in the City. In addition, with the exception of Construction and Demolition (C & D) debris, and business generated organic waste and recyclable materials that are segregated at the source and diverted from landfill, this permit shall not extend to services provided using containers serviced with a front load or side load vehicle. City and Permit Holder agree that this Agreement shall be applicable to all areas hereafter annexed or otherwise added to the territorial limits of the City.

3. DEFINITIONS AND PREVAILING LAW:

In the event of any conflict between the provisions of this permit and those contained in Title 8, Chapter 8.08, Section 020, of the Municipal Code, or any other section of the Municipal Code, the provisions of Municipal Code shall prevail.

A. "Food Waste" means food scraps and trimmings and other putrescible waste that results from food production, preparation, storage, consumption or handling. Food Waste includes but is not limited to: meat, fish and dairy waste, fruit and vegetable waste, grain waste, and may also include compostable food packaging items such as pizza boxes, paper towels, and food contaminated paper products.

B. "Garbage" means all putrescible and non-putrescible solid, semi-solid and associated liquid waste, as defined in California Public Resources Code Section 40191. Garbage does not include those items defined herein as Recyclable Materials, or Organic Waste that have been source-separated for purposes of diversion.

C. "Green waste" means all tree and plant trimmings, grass cuttings, plants, weeds, leaves, branches, and other similar materials, other than bulky waste or garbage.

D. "Mixed C&D Debris" means C&D debris that includes commingled recyclable C&D materials and non-recyclable C&D debris generated from a project.

E. "Organic Waste" means Food Waste and Green Waste, either separate or commingled with each other, that has been separated at the source of generation from Garbage and Recyclable Materials and contains less than three (3) percent by volume contamination (garbage or other unacceptable materials), as determined by visual inspection.

F. "Recyclable C&D Material" means used or discarded materials resulting from construction, demolition or renovation, including but not limited to remodeling, repair, or demolition operations, on any pavement, sidewalk, street, roadway project, bridge, house, commercial building, utilities or any other facility, structure or improvement, that are designated to be diverted from landfills and returned to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace.

G. "Recyclable Material (Recyclables)" means any materials capable of being containerized and diverted from the landfill, including, but not limited to, magazines, newspapers, office paper, cardboard, chipboard, aluminum, tin and plastic beverage containers and other items that from time to time are classified as eligible for recycling. Recyclable material does not include refuse or hazardous materials.

H. "Refuse" means garbage, rubbish, construction and/or demolition debris, or all of these.

I. "Rubbish" means and includes all waste (other than garbage, green waste, organic waste, bulky waste, and construction/demolition debris), including, without limiting the generality of, the forgoing: rags, sawdust, sweepings, plaster, brick, window glass, cement, crockery, shells, metals, metal products, ashes, and all nonorganic accumulations from garden and/or yard areas, not including construction and/or demolition debris.

J. "Source-Separated Recyclable C&D Material" means any type of recyclable C&D material separately containerized or clearly segregated from mixed C&D debris and other recyclable C&D material, prior to collection and transportation, for further processing.

K. "Certified C&D Sorting Facility" means a C&D sorting facility, certified by a government agency to be technically competent and adequately equipped to extract recyclable material from mixed C&D debris and market those materials successfully, diverting them from disposal in a landfill, and maintaining compliance with all terms and conditions of certification.

4. HAULING PERMIT HOLDER'S RESPONSIBILITIES:

A. It is expressly understood and agreed that the Permit Holder is, and at all times shall be, an independent contractor and nothing contained herein shall be construed as being inconsistent with that statute or as making the Permit Holder, or any individual whose compensation for services is paid by the Permit Holder, an agent or employee of the City, or as authorizing the Permit Holder to create or assume any obligation or liability for or on behalf of the City.

B. The Permit Holder shall provide all funds required in connection with this permit and performance thereof, including any funds required for interim financing, long-term financing, working capital and all other operating costs of every kind and description.

C. The Permit Holder shall provide all personnel and all machinery and equipment of every kind and description required for the performance of this permit.

D. The Permit Holder agrees to comply with all applicable federal and state laws, County and City resolutions and ordinances, including, but not limited to Title 8, Chapter 8.08, of the West Sacramento Municipal Code, regulating the collection of refuse, recyclables and organic waste.

E. The Permit Holder shall, at its expense, maintain in effect at all times during the duration of this permit not less than the following coverages and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the City:

1. Worker's Compensation - Insurance to protect the Permit Holder, its contractors and subcontractors from all claims under Worker's Compensation and Employer's Liability Acts, if applicable. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable state and Federal statutes and regulations.

2. The insurer shall agree to waive all rights of subrogation against the City for losses arising from work performed by the Permit Holder.

3. Comprehensive General and Automobile Liability Insurance.

4. The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than **\$1,000,000.00** per occurrence.

5. Comprehensive general liability insurance and automobile liability insurance coverages shall also include, or be endorsed to include, the following:

a. Provision or endorsement naming the City and each of its officers, employees, and agents, as additional insureds in regards to: liability arising out of the performance of any work; liability arising out of activities performed by or on behalf of the Permit Holder; premises owned, occupied or used by the Permit Holder; or automobiles owned, leased, hired or borrowed by the Permit Holder. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

b. Provision or endorsement stating that for any claims related to the Permit Holder's performance of this permit, the Permit Holder's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Permit Holder's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss, or judgment.

c. Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of representations shall not affect coverage provided to the City, its officers, officials, employees, or volunteers.

d. Provision or endorsement stating that the Permit Holder'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.

e. Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by the Permit Holder, including, without limitation, that set forth in Section 4 F, Indemnity and Litigation Costs.

f. Such insurance shall be placed with insurers with a current A.M. Best's rating of no less than A: VII (an NR rating is acceptable for Worker's Compensation insurance written with the State Compensation Insurance Fund of California).

F. The Permit Holder shall indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees against all claims, damages, demands, liability, costs, losses and expenses, including, without limitation, court costs and reasonable attorneys' fees, arising from Permit Holder's negligent acts or negligent failure to act, errors, omissions or willful misconduct incident to the performance under these terms and conditions except such loss or damage caused by the active negligence, sole negligence, or willful misconduct of the City. The provisions of this paragraph shall survive termination or suspension of the Hauling Permit.

G. A permit shall be issued by the Administrator and become effective only once the applicant has signed the Hauling Permit Application and Certification Statement, and has satisfied all of the requirements and conditions set forth in this policy and Municipal Code.

H. The Permit Holder shall be solely responsible for and shall pay all Federal, State and Local taxes, including sales taxes, social security taxes, etc., which may be chargeable against the labor, material, equipment or other items necessary in the performance of this permit.

5. OPERATIONAL REQUIREMENTS:

It is understood and agreed by the parties hereto that the following Operational Requirements shall apply to each party or both parties as applicable and necessary to the effectiveness of this permit.

A. The Permit Holder shall collect, transport, recycle and/or dispose of all materials in accordance with requirements of Title 8, Chapter 8.08, of the Municipal Code; provided, however, the Permit Holder shall not be required to collect, remove or dispose of any materials which is not placed in such locations and/or containers and at such times as provided for by said ordinances.

B. Except as otherwise provided herein, collection at commercial premises shall not start before 6:00 a.m. or continue after 6:00 p.m. of any day. Collection at residential

sites shall not start before 7:00 a.m. or continue after 6:00 p.m. of any day (or in sensitive land use areas as defined in the General Plan).

C. Wherever the Permit Holder shall furnish the containers, he shall keep the same in good repair and well painted and clearly marked with the name and phone number of the Permit Holder. The lettering shall be no smaller than four (4) inches in height and clearly marked on two sides of the container.

D. Permit Holder and persons requesting services shall be responsible for furnishing containers of sufficient size to adequately contain all of the material generated between collection periods.

E. If containers are moved by the Permit Holder for his convenience, they shall be returned to their original location by Permit Holder within a reasonable time.

F. Space about the container shall be left free from any material spilled during the collection. The Permit Holder shall not be responsible for cleaning up unsanitary conditions about the containers caused by carelessness of other persons.

G. Collection shall be made with as little noise and as little disturbance to the household or business place as possible. Containers shall be carefully handled by the Permit Holder and shall be thoroughly emptied and left at the premises where they are found.

H. The Permit Holder may use any licensed disposal site which shall be open to use and acceptable to the City. The Permit Holder shall not commingle material collected from the City with that of other jurisdictions and shall accurately report as required in Section 6 (d) of these Terms and Conditions.

I. The Permit Holder shall provide an adequate number of vehicles and equipment for regular collection services. They shall be kept clean on the inside and out, well painted uniformly on the outside; be in good repair, free of dents and other damage and in compliance with all safety standards; have containers sufficiently tight so as not to leak and have proper covers, where applicable, so that the contents shall not be offensive. Each vehicle shall have a sign on each side of such vehicle with appropriate words in letters not less than four (4) inches in height indicating such vehicle is engaged in the work of refuse collection and/or transporting. Materials shall be loaded so that none of it shall fall, drop, or spill upon the ground.

J. The Permit Holder shall use only those vehicles that comply with the strictest antipollution standards applicable to the vehicles utilized.

K. Each employee shall, at all times, carry a valid operator's license for the type of vehicle s/he is driving.

L. The direction and supervision of the collection, transportation recycling and/or disposal operation shall be undertaken by competent and qualified personnel, including all subcontractors, foremen and workmen employed by Permit Holder to ensure satisfactory performance.

M. The Permit Holder shall not be required to collect, transport or dispose of:

1. Liquid wastes; and/or

2. Special wastes such as chemicals, oils, or materials of any poisonous or explosive nature.

N. Permit holder shall not place, or cause to place, any container in a City street or right-of-way without first obtaining a proper encroachment permit as required.

6. RATES AND REFUSE COLLECTION FRANCHISE FEES:

A. The Permit Holder shall charge for services performed under this permit in accordance with their own fee schedule.

B. Permit Holder shall perform their own billing and collection of fees, and shall be responsible for collection of delinquent fees.

C. The Permit Holder shall be entitled to all revenue generated through its own sale of salvageable materials and revenue derived therefrom shall not be subject to payment of franchise fees.

D. Before the last day of the month following the end of the reporting period (month or quarter) the Permit Holder shall report on a form provided by the City, Exhibit C, the amount of gross billings for the reporting period (month or quarter) along with:

1. A listing of customer names and service addresses and the date of service.

2. The tonnages collected by customer and the destination for all materials collected listed by material type.

3. Detailed information for regular customers (those customers with on-going service contracts), if applicable, as specified in the Exhibit C – Page 2 reporting form.

E. The Permit Holder shall pay a franchise fee to the City in accordance with the fee schedule as adopted by the City Council and amended from time to time as set forth in Exhibit D.

1. For Permit Holders whose primary business is waste hauling, the franchise fee shall be payable on all gross billings, before the franchise fee has been applied, by a Permit Holder from their refuse collection customers located within the City.

2. For those Permit Holders where waste hauling is incidental to their primary business, fees shall be calculated based on \$113.00 for every ton or portion thereof of refuse collected. This will be adjusted annually using the net percentage change in the CPI for all Urban Consumers of the San Francisco/Oakland Area, as prepared and released by the United States Department of Labor, Bureau of Labor Statistics from the base August 2009 index of 225.801 (1982-84=100)

F. Each Permit Holder shall at all times maintain accurate and complete accounts of all revenues and income arising out of its operations under the Hauling Permit. These accounts shall include all information regarding all material collected, transported, recycled and/or disposed of; the source of such materials; and the final destination of

such materials. Permit Holder's books, accounts and records reasonably necessary for the enforcement of these terms and conditions and the Hauling Permit shall be made available for inspection, examination and audit during normal business hours by authorized officers, employees and agents of the City. The City shall give written notice at least three (3) days prior to any inspection, audit or examination of these records. Where the City determines that an audit is necessary, the Permit Holders may be responsible for reimbursement of audit costs, including any City or Consultant services, to perform audits of accounts of all Permit Holder revenues and income arising out of operations under the Hauling Permit pursuant to these terms and conditions.

G. Attestation that books and accounts of all revenue and income arising out of its operations will be kept in a manner that conforms to Generally Accepted Accounting Principles.

H. If Franchise Fee is not paid in accordance with subsection E, the following delinquency penalties will be assessed:

DELINQUENCIES- BASIC PENALTY:

A one-time basic penalty of ten percent (10%) of the franchise fee shall be added to each delinquent franchise fee for the first month the franchise fee is delinquent.

DELINQUENCIES – ADDITIONAL PENALTY:

After assessing the basic penalty, thereafter an additional penalty of one half percent (0.5%) per month for two months and thereafter one and one-half (1.5%) percent per month shall be added to all delinquent franchise fees and basic penalties remaining unpaid.

PAYMENT OF PART OF DELINQUENCY:

Monies paid where any portion of a franchise fee is delinquent shall first be credited to the delinquent portion of the franchise fee and then to the current franchise fee.

7. GENERAL TERMS:

A. It is agreed that each and every one of the rights, remedies and benefits provided by this permit shall be cumulative, and shall not be exclusive of any other of said rights, remedies and benefits, nor of any other rights, remedies and benefits allowed by law.

B. Wherever approval by City is required, it shall mean approval by the City Manager, or his designee or as directed by the City Council.

C. Either party to this permit may be excused from default of performance because of conditions beyond their control such as war, insurrection, strikes, riots, civil insurrection, or Acts of God.

D. It is understood and agreed the City may terminate this permit at any time and declare it void for any violation of its terms, and/or any ordinances regulating the collection, transportation, recycling and/or disposal of materials; provided the Permit Holder shall be given notice giving Permit Holder a reasonable opportunity of not less than thirty days in which to correct the violation or violations complained of, as set forth in said notice. Termination under this section does not relieve the Permit Holder from

payment of any fees due the City at the time of such termination. Should the permit be terminated, the Permit Holder is ineligible to reapply for six months from the date of termination.

E. Any permit granted pursuant to this part shall automatically be suspended whenever the Permit Holder:

1. Fails to keep in full force and effect the insurance required by the Hauling Permit Terms & Conditions; or
2. Fails to keep in full force and effect any applicable licenses or permits required by federal, state or local law.
3. The suspension shall remain in effect until the Permit Holder provides satisfactory documentation, verifying that the reason for the suspension specified above no longer exists.

F. This permit, or any portion thereof, shall not be sublet or assigned except with the prior written consent of the City except that Permit Holder may assign this permit to a wholly owned subsidiary. No such consent shall be construed as making the City a party to such subcontract or assignment, or subjecting said City to liability of any kind to any subcontractor or assignee

G. If Permit Holder shall at any time during the term of this permit become insolvent, or if proceedings in bankruptcy shall be instituted by or against the Permit Holder, or if the Permit Holder shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of the Permit Holder shall be appointed in any suit or proceeding brought by or against the Permit Holder, or if the Permit Holder shall make an assignment for the benefit of the creditors, then and in each and every case, this permit and the rights and privileges granted thereby shall immediately and automatically cease, be forfeited and canceled without notice and without suit or other proceeding.

H. The parties agree that in the event any covenant, condition, or provision herein contained is held to be invalid by any court or competent jurisdiction, the invalidity thereof shall in no way affect any other provision in this permit if the provision does not materially prejudice either the Permit Holder or the City in their respective rights and obligations hereunder.

I. The failure of either party to insist in any instance of strict performance by the other party of any of the provisions, terms, covenants, reservations, conditions, or stipulations contained in this permit shall not be considered a waiver thereof, and the same shall continue and remain in full force and effect. No waiver by the City of any provision, term, covenant, reservation, condition or stipulation contained in this permit shall be deemed to have been made in any instance unless expressed in the form of a resolution by the City Council.

J. The Permit Holder warrants that he has not employed any officer or employee of the City of West Sacramento nor offered any gift, gratuity, contingent fee or any other thing of value to such officer or employee of the City of West Sacramento in obtaining this permit.

