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TERMS AND CONDITIONS  
FOR  
INDUSTRIAL REFUSE COLLECTION PERMIT

I. NON-EXCLUSIVENESS OF PERMIT

The rights granted under this permit (see Exhibit A) are non-exclusive. This permit shall not extend to the express rights of certain establishments to haul their own refuse in accordance with City ordinance, nor to services provided by 10 to 50 cubic yard residential and commercial roll-off bins in accordance with City ordinance.

II. PERMITTEE'S RESPONSIBILITIES

- A. Permittee is an independent contractor. Nothing contained herein shall be construed as being inconsistent with that statute or as making the Permittee, or any individual whose compensation for services is paid by the Permittee, an agent or employee of the City of Lodi.
- B. Permittee may collect, transport and dispose of industrial refuse within the City in accordance with all applicable Federal, State, County and City laws, ordinances and resolutions regulating collection and disposal of refuse. Permittee may only collect industrial waste. The City Manager or other designee shall determine if a customer is "industrial" or "commercial".
- C. Permittee 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 under forms of policy satisfactory to the City:
  - 1. Comprehensive General and Automobile Liability, Property Damage and Personal Injury: Such comprehensive general, automobile and public liability insurance shall protect the Permittee, the City, its officials, officers, agents and employees from claims and/or losses which may arise from the Permittee's operations, whether such operations are by the Permittee, its employees, subcontractors, consultants, agents or anyone directly or indirectly employed by any of the foregoing. The limits of said insurance shall be not less than five million dollars (\$5,000,000) per occurrence.

The CITY OF LODI, ITS ELECTED AND APPOINTED BOARDS, COMMISSIONS, OFFICERS, AGENTS, EMPLOYEES, and VOLUNTEERS must be named as additional insured on the face of the insurance certificate AND as an endorsement attached to the certificate of insurance.

In addition to the additional named insured endorsement on the policy of insurance, said insurance policy shall be endorsed to include the following language:

“Such insurance as is afforded by the endorsement for the additional insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement.”

2. Workers' Compensation: Full workers' compensation and employer's liability coverage in accordance with all applicable workers' compensation and employer's liability laws for all persons employed, either directly or through subcontractors.
3. Pollution Liability: Such pollution liability insurance shall protect the Permittee, the City, its officials, officers, agents, employees, and volunteers from claims and/or losses which may arise from the Permittee's operations, whether such operations are by the Permittee, its employees, subcontractors, consultants, agents or anyone directly or indirectly employed by any of the foregoing. The limits of said insurance shall be not less than one million dollars (\$1,000,000) per occurrence.

Each certificate shall contain satisfactory evidence that each carrier is required to give the City of Lodi notice 30 days prior to the cancellation or reduction in coverage of any policy.

Permittee shall on execution of this permit, and on an annual basis thereafter, provide the City with certificates of insurance which shall, among other things, show not less than all of the above required coverages and endorsements. Nothing contained herein shall be construed as limiting in any way the extent to which the Permittee may be held responsible for payment of damages resulting from its operations.

- D. Permittee shall indemnify, defend and hold the City, its officials, officers, agents and employees harmless from any and all demands, claims, lawsuits and causes of action, losses, damages or liability, including attorney's fees and expenses of litigation, for death or injury to persons or damages to property, caused by or alleged to have been caused by or rising out of the Permittee's performance of this permit and the conduct of the Permittee's business.
- E. Permittee shall provide proof of inspection by the California Highway Patrol and/or San Joaquin County Health Department of all vehicles used for hauling of industrial waste on an annual basis.
- F. Permittee shall provide a one-time bond for potential defaults or failures to pay franchise fee in an amount approved by the Finance Director. It is the responsibility of Permittee to see that this bond is current and in force.

### III. OPERATIONAL REQUIREMENTS

- A. Permittee shall use a materials recovery facility (MRF), licensed by the State of California, to process industrial waste. Permittee shall provide the Management Analyst in the Public Works Department on a quarterly basis with all tonnage data and information on the industrial waste stream required under State solid waste reduction statutes. Failure to provide such information may result in revocation of permit.

- B. Permittee shall provide an adequate number of vehicles and equipment for regular collection services. They shall be washed regularly and well painted uniformly on the outside; be in good repair; and in compliance with all safety standards. They shall have a sign on each side with appropriate wording indicating such vehicle is engaged in the work of sanitary service. Vehicles shall comply with the strictest anti-pollution standards.
- C. Permittee shall keep all bins in good repair, well painted and clearly marked with the business name. Bins shall be sufficiently tight so as not to leak and have proper covers where applicable, so refuse shall not be offensive. Permittee and persons requesting bin services shall be responsible for furnishing bins of sufficient size to adequately contain all refuse generated between collection periods.
- D. Refuse collection shall be made with as little noise and disturbance to the business place as possible. Bins shall be thoroughly emptied and left at the premises. Refuse shall be loaded so none of it shall fall on the ground.
- E. Each employee shall at all times carry a valid operator's license for the type of vehicle he or she is driving.

IV. FRANCHISE FEE

- A. Permittee shall report the amount of gross receipts for the previous calendar year, or immediately upon close of business, on a form provided by the City (see Exhibit B), and shall pay a franchise fee to the City annually. Gross receipts includes charges for containers, pick-up, hauling and disposal, and does not include charges for other services, such as sweeping and site work.
- B. Permittee shall make its records, reports and methods of accounting available and open to inspection and confidential review by the City during normal business hours to allow the City to review Permittee's accounting systems and procedures. If during the course of the review discrepancies in reporting are found, the Permittee will be required to pay the City the amount of lost revenue plus a penalty of ten percent (10%).
- C. If franchise fee is not paid in accordance with Section IV., B., the following delinquency penalties will be assessed:

Delinquency – Basic Penalty: A penalty of ten percent (10%) shall be added to each delinquent bill per month of any portion of a month. Remittances are considered delinquent thirty (30) calendar days after close of the reporting period which is December 31<sup>st</sup> of each calendar year.

Payment of Part of the Delinquency: Monies paid where any portion of an account is delinquent shall first be credited to the delinquent portion of the bill and then to the current billing.

V. TERM OF PAYMENT

- A. Permit commences on the date signed by an authorized representative of the City and continues until terminated by the City upon written notice. Permittee shall pay all fees and provide all certificates and information on a regular basis as outlined herein to maintain the permit.

- B. 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 and disposal of industrial refuse; provided Permittee shall be given notice of not less than thirty (30) days in which to correct the violation(s) complained of, as set forth in said notice. Termination under this section does not relieve Permittee from payment of any fees due the City at the time of such termination.
  
- C. This permit and the rights of the parties hereunder shall be interpreted under the laws of the State of California. No purported modification, amendment or other change in this permit shall be valid unless set forth in writing signed by both Permittee and City.