

HEALTH COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 18-99

**REVISING THE FEDERAL FACILITIES REFUSE COLLECTION
PERMIT REGULATION TO HARMONIZE IT WITH REFUSE COLLECTION
PERMIT REGULATION FOR NON-FEDERAL FACILITIES AT
TREASURE ISLAND AND YERBA BUENA ISLAND**

WHEREAS, the Refuse Collection and Disposal Initiative Ordinance of 1932, as amended (Initiative Ordinance), requires persons collecting refuse in the City and County of San Francisco to be permitted; and,

WHEREAS, federal facilities must comply with the requirements of the Initiative Ordinance pursuant to Section 6001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA); and,

WHEREAS, in 1992, the Health Commission adopted the Federal Facilities Refuse Collection Permit Regulation governing the issuance of refuse collection permits for federal facilities within the exterior boundaries of the City and County of San Francisco; and,


WHEREAS, this Commission is concurrently considering the adoption of a regulation governing the issuance of refuse collection permit for non-federal facilities at Treasure Island and Yerba Buena Island, which is different from the existing Federal Facility Refuse Collection Permit Regulation; and,

WHEREAS, Section 6001 of RCRA requires local government to regulate federal facilities in the same manner as non-federal facilities; and,

WHEREAS, the Health Commission desires to harmonize the Federal Facilities Refuse Collection Permit Regulation with the Regulation for the Issuance of Refuse Collection Permit for Non-Federal Facilities at Treasure Island and Yerba Buena Island; now, therefore, be it

RESOLVED, that the Health Commission hereby amends the Regulation for Issuance of Refuse Collection Permits for Federal Facilities.

I hereby certify that the foregoing resolution was adopted by the San Francisco Health Commission at its meeting of Tuesday, May 4, 1999.



Sandy Ouye Mori
Executive Secretary to
the Health Commission

1 REGULATION FOR ISSUANCE OF REFUSE COLLECTION PERMITS FOR FEDERAL
2 FACILITIES

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4 I. APPLICABILITY OF REGULATION

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6 A. Authorization

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8 The Health Commission issues this Regulation pursuant to Sections 4.104 and 4.110
9 of the Charter of the City and County of San Francisco. The Refuse Collection and
10 Disposal Ordinance of 1932 (as amended and recodified, in part -- San Francisco
11 Health Code Article 6) ("Initiative Ordinance") authorizes the Director of Department of
12 Public Health to implement this Regulation. The Director of the Department of Public
13 Health has delegated that authority to the Director of the Environmental Health
14 Management Section. Pursuant to Resolution 259-92 of the San Francisco Board of
15 Supervisors on April 7, 1992, the Bureau of Environmental Health Services, now known
16 as the Environmental Health Management Section, is the designated Local
17 Enforcement Agency under the California Integrated Waste Management Act of 1989,
18 California Public Resources Code Section 40000 *et seq.*, and its implementing
19 regulations.

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21 B. Policy

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23 Section 4 of the Initiative Ordinance authorizes the Director of Public Health to issue
24 refuse collection permits under specific conditions. Federal facilities are subject to the
25 requirements of the Initiative Ordinance pursuant to Section 6001 of the Resource

1 Conservation and Recovery Act (RCRA). However, large federal enclaves present
2 special problems for the City's refuse collection permit program. These facilities were
3 previously exempt from local solid waste regulations and historically may not have
4 been serviced by permitted and licensed refuse collectors. These facilities are also
5 subject to federal procurement regulations that specify the requirements and process
6 for award of contracts by each federal agency. In order to ensure that these potentially
7 conflicting regulatory requirements do not prevent the efficient, continuous refuse
8 collection, the Health Commission adopted the Federal Facilities Refuse Collection
9 Permit Regulation in 1992. This Regulation is being amended pursuant to the
10 requirement of Section 6001 of RCRA, 42 U.S.C. Section 6961(a), to update the
11 program to reflect changes in circumstances and to harmonize the Federal Facilities
12 Refuse Collection Permit Regulation with the recently adopted Refuse Collection
13 Permit Regulations for Non-Federal Facilities at Treasure Island and Yerba Buena
14 Island. This policy serves to carry out City responsibilities under federal, state, and
15 local law. It also protects the public health and welfare by regulating and selecting the
16 companies that transfer refuse over City streets.

17 18 C. Scope

19
20 This Regulation applies to Applicants for federal facility refuse collection permits under
21 the Initiative Ordinance. This Regulation provides procedures and substantive
22 requirements for issuance of refuse collection permits for federal facilities within the
23 boundaries of the City and County of San Francisco. This regulation is applicable to
24 six federal facilities at Hunters Point Naval Shipyard, Veteran's Hospital - Fort Miley,
25 Treasure Island, Yerba Buena Island, the Presidio of San Francisco, and the Golden

1 Gate National Recreation Area. Federal facilities are subject to this ordinance to the
2 extent required by Section 6001 of RCRA, 42 U.S.C. Section 6961.

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4 D. Other Requirements

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6 In addition to complying with this Regulation and the Initiative Ordinance, all Permittees
7 must comply with California Public Resource Code Section 40000 *et seq.* and the
8 requirements of Title 14 of the California Code of Regulations, Division 7, Chapter 3,
9 beginning at Section 17200 and all other applicable federal, state, and local laws.

10
11 II. APPLICATION PROCEDURES

12
13 A. Filing Requirements

14
15 Any person proposing to perform refuse collection for an applicable federal facility, or
16 proposing to significantly modify an existing federal facility refuse collection permit,
17 shall file a complete permit application with the Director of the Environmental Health
18 Management Section ("Director") containing information specified in Subsection II.C of
19 this Regulation. An application filing fee as approved by the Board of Supervisors
20 made payable to the Department of Public Health must accompany the application. An
21 Applicant's failure to submit the required filing fee shall render the application
22 incomplete. Application review time exceeding two hours will be billed at a rate as
23 approved by the Board of Supervisors.

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1 B. Showing of Need

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3 For an Applicant applying for a new refuse collection permit, the application shall
4 contain a demonstration of the need for a new permit based on one or more of the
5 following reasons:

- 6
7 1. There is no permitted collector providing service at the federal facilities,
8 or;
9
10 2. The currently permitted collector is providing inadequate service as
11 defined in Section 4 of the Initiative Ordinance, or;
12
13 3. The issuance of a permit is in the public's interest and protects the public
14 health and welfare; or,
15
16 4. The Applicant is a bona fide bidder for a refuse collection service contract
17 for federal facilities within the City.

18
19 Upon satisfactory compliance with all requirements set forth in this Regulation, the
20 Director:

- 21 i. May issue a Permit if the Applicant demonstrates a need pursuant to
22 subparagraphs 1 or 2 of this subsection;
23 ii. May issue a Permit or a Conditional Permit if Applicant demonstrates a
24 need pursuant to subparagraph 3 of this subsection or;
25

1 iii May issue a Conditional Permit conditioning its validity on the award of
2 the refuse collection contract to Applicant, if Applicant demonstrates a
3 need pursuant to subparagraph 4 of this subsection. Each bona fide
4 bidder that satisfies the requirements of this Regulation may be issued a
5 Conditional Permit.

6

7 C. Qualifications of Applicant

8

9 Prior to deeming an application complete, the Director shall verify that the Applicant
10 has submitted the required filing fee and has provided the following information:

11

12 1. General

13

- 14 a. Name and address of person(s) or organization applying for permit
15 or permit modification.
- 16 b. Name and phone number of contact person.
- 17 c. Date of submission of application.
- 18 d. Type of organization (partnership, corporation, etc.)
- 19 e. Name and address of each partner or major stockholder with
20 holdings of over 5% of stock and of each key manager.
- 21 f. Five letters of recommendation or reference regarding Applicant's
22 capability as a refuse collection contractor. Such recommendations
23 or references must be made within the last 3 years.

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- 1 g. History, description, and outcome of all the Applicant's (including
- 2 the key managers) criminal, civil, and administrative violations in
- 3 the past 10 years.
- 4 h. History and description of ongoing related party transactions (e.g.,
- 5 leases of trucks and equipment, subcontractors).
- 6 i. Description of area(s) or route(s) to be serviced.

7

8 2. Financial Responsibility

9

- 10 a. Audited financial statements, including Profit & Loss Statements,
- 11 Balance Sheets, and all required notes to the financial statements
- 12 for past five (5) years. Such financial statements shall be certified
- 13 by a Certified Public Accountant.
- 14 b. Evidence of ability to secure a performance bond or equivalent
- 15 security equal to the contract amount for up to six (6) months of
- 16 service or in an amount satisfactory to the Director.
- 17 c. Certificates of insurance in the amounts required by the contract,
- 18 or \$1 million per occurrence/\$2 million aggregate, whichever is
- 19 greater.
- 20 d. Description of any previous bankruptcies.
- 21 e. Other significant existing financial obligations (e.g., leases,
- 22 pending lawsuits).

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1 3. Operational Competency

- 2
- 3 a. Statement of industry experience that is comparable to the level of
- 4 service required by the contract and/or required at the federal
- 5 facilities served.
- 6 b. Resumes of key managers.
- 7 c. List of equipment to be utilized to collect and haul refuse under the
- 8 permit.
- 9 d. Location and description of office/maintenance facilities.
- 10 e. Description of Applicant's maintenance procedures.
- 11 f. Proposed service collection schedule.
- 12 g. DMV records of all drivers and years of commercial driving
- 13 experience.
- 14 h. Description of major accidents in past five (5) years.
- 15 i. Worker's compensation experience modification factor for past five
- 16 (5) years.
- 17 j. Description of safety procedures.

18

19 4. Program Compliance

- 20
- 21 a. Description of Applicant's proposed Waste Acceptance Control
- 22 Program to exclude hazardous and designated wastes.
- 23 b. Description of Applicant's complaint resolution procedures.
- 24 c. Copy of customer complaint log from a comparable refuse
- 25 collection operation for the previous five (5) years.

1 5. Attestation

2
3 The Applicant or its authorized representative shall declare under the penalty of
4 perjury that the information provided in the application are true and correct.

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6 6. Confidential Information

7
8 If the Applicant requests that any part of the application remain confidential, a
9 statement of legal justification regarding the City's right to uphold the request.

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11 III. PERMIT PROCESS

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13 A. Determination of Completeness and Adequacy

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15 Applicant may request a meeting with the Director to review the application for
16 completeness and adequacy within five (5) days from the filing of the application. If
17 requested by the Applicant, the Director shall meet with the Applicant within five (5)
18 days of the request.

19
20 The Director shall notify the Applicant within fifteen (15) days from the filing date
21 whether the application has been accepted as complete and adequate. If the Director
22 finds that the application is incomplete or inadequate, the Director shall notify the
23 Applicant in writing that the application is incomplete and inadequate and is not
24 accepted for filing. The Director shall identify all deficiencies in the application. The

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1 Director shall have the discretion to either allow the Applicant up to a maximum of five
2 (5) days to cure all deficiencies cited or to reject the application.

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4 B. Notice of Completed Application

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6 The Director shall provide a notice of completed application to interested parties,
7 including, but not limited to, all existing refuse collection permittees for the specific
8 federal facilities and other permit Applicants. The Director shall publish the notice of
9 completed application in a newspaper of general circulation within the City and County
10 of San Francisco for at least two (2) days and not less than five (5) days prior to the
11 expiration of the time period to request a public hearing. The published notice shall
12 state that the Applicant has applied for a refuse collection permit at the applicable
13 facility(ies) and that a public hearing will be held only if requested by an interested
14 party or the public within fourteen (14) days of the first publication of the notice of
15 completed application. The published notice shall specify the date at which the time
16 period to request a public hearing expires. The notice shall specifically state that a
17 Permit or a Conditional Permit may be issued without a public hearing unless a timely
18 request for hearing is made. The notice shall indicate that those requesting a hearing
19 shall submit a nominal fee in an amount approved by the Board of Supervisors made
20 payable to the Department of Public Health.

21
22 C. Notice of Hearing

23
24 If the Director receive a request for hearing within the time period set forth in
25 subsection III.B or in her or his discretion deems that a public hearing is in the public

1 interest, the Director shall set a public hearing on the application to occur within thirty
2 (30) days from the expiration of the time period for requesting a hearing. Notice of a
3 public hearing shall also be given by publication in a newspaper of general circulation
4 in the City for at least two (2) days and not less than 15 days prior to the date of such
5 hearing. If more than one application is received for the same federal facility(ies), the
6 Director may postpone the hearing date to set a joint hearing for all completed
7 applications. Where multiple applicants are seeking a refuse collection permit for the
8 same facility(ies), a public hearing shall be held on all pending completed applications
9 if a request for hearing is made for any of the pending completed applications.

10 11 D. Conduct of Public Hearing

12
13 The Director or her or his designee shall preside over the public hearing on the permit
14 application(s). Testimony shall be taken from the Applicant(s), City staff, and
15 interested members of the public. The Director shall accept written and oral testimony
16 at the hearing, and all oral testimony will be recorded by an electronic recording
17 instrument. All oral testimonies shall be accompanied by written comments. All public
18 comment on the application(s) must be presented by the close of the hearing, unless
19 otherwise specified by the Director.

20 21 E. Final Action on Permit Application

22
23 Within thirty (30) days of the public hearing, if any, or the notice of completed
24 application, the Director shall take final action on a completed permit application by
25 sending a copy of the Permit, a Conditional Permit, a Modified Permit, or a permit

1 denial, to the Applicant. The decision on the completed permit application shall be
2 accompanied by a statement explaining the reasons for the Director's action, including
3 a response to any testimony presented at a public hearing (if any). The Director shall
4 send a copy of the decision and the statement to any person requesting a copy; and to
5 all persons who presented testimony at the public hearing (if any). The Director's
6 action shall be final at the close of business on the fifteenth (15th) day following the
7 issuance of the Permit or denial, unless an appeal is filed with the Board of Permit
8 Appeals.

9 10 F. Due Date

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12 Where the deadline specified in this Regulation falls on a weekend or a holiday, the
13 deadline shall be extended to the close of business on the following business day.
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15 IV. PERMIT PROVISIONS

16 17 A. Standards for Permit Issuance

18
19 The Director shall not issue a Permit or a Conditional Permit unless the Applicant
20 demonstrates:
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- 22 1. A sufficient showing of need as required by Section II.B;
- 23 2. Sufficient financial ability;
- 24 3. Operational competence and experience;
- 25 4. Program compliance ability; and

- 1 5. The ability to provide high quality, professional collection and disposal
2 services in light of prevailing industry standards and applicable laws.
3

4 B. Required Provisions
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6 A Permit or Conditional Permit shall be issued in accordance with the following terms
7 and conditions whether explicitly stated in the Permit or Conditional Permit or not:
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- 9 1. The Permit shall be limited to the area(s) within the federal facility for
10 which the permittee has a contract or is bidding on a contract;
11
- 12 2. The Permit or Conditional Permit is non-transferable;
13
- 14 3. The permittee shall comply with all applicable local, state, and federal
15 laws;
16
- 17 4. The permittee shall conduct operations in a safe, reliable, and
18 professional manner;
19
- 20 5. The permittee shall indemnify, defend, and hold harmless the City from
21 financial loss, damages, or claims (collectively or individually as "Claim"),
22 directly or indirectly, in whole or in part, arising out of or resulting from,
23 any act or omission that is related to the subject matter of the Permit.
24 Permittee shall indemnify the City for the reasonable fees of attorneys,
25 consultants, and experts and related costs and the City's costs of

1 investigating any Claim. Permittee has an immediate and independent
2 obligation to defend the City from any Claim which actually or potentially
3 falls within the subject matter of the permit even if such allegation is or
4 may be groundless, fraudulent or false, which obligation arises at the time
5 such Claim is tendered to the Permittee by the City and continues at all
6 times thereafter. Permittee's obligation to indemnify, defend, and hold
7 harmless the City shall survive the expiration of the Permit;
8

9 6. The permittee shall comply with the City's solid waste program goals and
10 requirements, including compliance with the San Francisco Integrated
11 Waste Management Plan and the San Francisco Waste Acceptance
12 Control Program, as they may be amended from time to time;
13

14 7. The permittee shall maintain the disposal arrangements that conform to
15 Section 5 of the Initiative Ordinance, to the extent allowable by law;
16

17 8. The Permit or Conditional Permit shall be non-exclusive;
18

19 9. The Permit shall automatically terminate in the event the area served
20 ceases to be a federal facility or at the expiration of the refuse collection
21 contract unless the contracting parties agree to extend the contract
22 without significant changes to other terms of the contract;
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24 10. The permittee shall maintain evidence of financial responsibility such as a
25 performance bond or equivalent security, in a form and manner
acceptable to the Director.

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11. The permittee shall use only vehicles licensed pursuant to the Initiative Ordinance.

C. Permit Modifications

The Director may make minor modification (e.g., change of vehicles, pickup locations or times, extension of the refuse collection contract without significant substantive changes to the contract, or name of company) to a permit upon request of the permittee without holding a public hearing.

Modifications deemed major by the Director shall require submittal of a complete permit application and a public hearing under Sections II and III. The Director may issue a Modified Permit due to significant modification of the relevant contract if the Applicant demonstrates:

- 1. The requested permit modification is required by the modified contract;
- 2. Sufficient financial ability, operational competence and experience to fulfill its obligations under the modified contract; and
- 3. Program compliance ability under the modified contract.

Requests to expand an area for refuse collection shall require a new permit. The Director may reopen an existing permit at any time to require a minor or major modification.

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1 D. Permit Revocation

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3 The Director may revoke the permit of any permittee subjected to license revocation
4 under Section 9 of the Initiative Ordinance. The Director may revoke any permit, after
5 notice and a hearing held pursuant to Section III, upon a determination that the
6 permittee has filed a false application, has failed to comply with the permit or other
7 requirements of law, or has provided inadequate service as provided in Section 4 of the
8 Initiative Ordinance. Notwithstanding the requirement of a request for public hearing in
9 Section III, a public hearing shall be held before the revocation of the permit.

10
11 E. Emergency Permits

12
13 Upon the submittal of a written request, the Director may issue temporary emergency
14 permits without a hearing when necessary for the protection of public health and to
15 ensure the continuity in refuse collection service. An Applicant for an emergency
16 permit shall submit a request for the emergency permit and a statement describing the
17 cause and nature of the emergency. The Director, in her or his discretion may assess
18 an emergency permit fee of up to an amount approved by the Board of Supervisors. In
19 assessing the emergency permit fee, the Director shall consider the Applicant's degree
20 of culpability in causing the emergency. Emergency permits shall expire upon
21 issuance of a permit under Sections II and III of this Regulation or 120 days, whichever
22 is sooner.

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HEALTH COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 17-99

**ADOPTING REGULATION FOR THE ORDERLY ISSUANCE OF REFUSE
COLLECTION PERMIT FOR NON-FEDERAL FACILITIES AT
TREASURE ISLAND AND YERBA BUENA ISLAND**

WHEREAS, the Refuse Collection and Disposal Ordinance of 1932, as amended (Initiative Ordinance), requires persons collecting refuse in the City and County of San Francisco to be permitted; and,

WHEREAS, federal facilities must comply with the requirements of the Initiative Ordinance pursuant to Section 6001 of the Resource Conservation and Recovery Act of 1976, as amended; and,

WHEREAS, in 1992, the Health Commission adopted the Federal Facilities Refuse Collection Permit Regulation governing the issuance of refuse collection permits for federal facilities within the exterior boundaries of the City and County of San Francisco; and,

WHEREAS, refuse collectors at Treasure Island and Yerba Buena Island were previously permitted under the Federal Facilities Refuse Collection Permit Regulation; and,


WHEREAS, the City and County of San Francisco has assumed control and management of certain facilities at Treasure Island and Yerba Buena Island, and will ultimately become the owner of such facilities; and,

WHEREAS, the Federal Facilities Refuse Collection Permit Regulation does not apply to refuse collection for City-managed facilities at Treasure Island and Yerba Buena Island since such facilities are no longer federal facilities; and,

WHEREAS, the Health Commission desires to provide for the orderly issuance of refuse collection permits for City-managed facilities at Treasure Island and Yerba Buena Island; now, therefore, be it

RESOLVED, that the Health Commission, hereby adopts the Regulation for Issuance of Refuse Collection Permits for Non-Federal Facilities at Treasure Island and Yerba Buena Island.

I hereby certify that the foregoing resolution was adopted by the San Francisco Health Commission at its meeting of Tuesday, May 4, 1999.



Sandy Ouye Mori
Executive Secretary to
the Health Commission

1 REGULATION FOR ISSUANCE OF REFUSE COLLECTION PERMITS FOR NON-
2 FEDERAL FACILITIES AT TREASURE ISLAND AND YERBA BUENA ISLAND
3

4 I. APPLICABILITY OF REGULATION
5

6 A. Authorization
7

8 The Health Commission issues this regulation pursuant to Sections 4.104 and 4.110 of
9 the Charter of the City and County of San Francisco. The Refuse Collection and
10 Disposal Ordinance of 1932 (as amended and recodified, in part -- San Francisco
11 Health Code Article 6) ("Initiative Ordinance"), authorizes the Director of the
12 Department of Public Health to implement this regulation. The Director of the
13 Department of Public Health has delegated this authority to the Director of the
14 Environmental Health Management Section. Pursuant to Resolution 259-92, adopted
15 on April 7, 1992, the Board of Supervisors designated the Bureau of Environmental
16 Health Services, now known as the Environmental Health Management Section, as the
17 Local Enforcement Agency charged with the enforcement of the California Integrated
18 Waste Management Act of 1989, California Public Resources Code Section 40000 *et*
19 *seq.* and its implementing regulations.
20

21 B. Policy
22

23 Section 4 of the Initiative Ordinance authorizes the Director of Public Health to issue
24 refuse collection permits under specific conditions. Issuance of refuse collection
25 permits for routes at Treasure Island and Yerba Buena Island ("TI-YBI") presents a

1 unique situation. TI-YBI are currently in a state of transition, from management by the
2 Federal Government to management by the City. Historically, the Federal Government
3 owned and managed all facilities at TI-YBI. The City and the Federal Government are
4 actively negotiating to transfer the ownership of portions of TI-YBI that are no longer
5 occupied by the Federal Government to the City. Pending the transfer, the City will
6 manage and control various facilities at TI-YBI that are not occupied by the Federal
7 Government. Therefore, these facilities can no longer be considered federal facilities
8 and are not subject to the Federal Facility Refuse Collection Permit Regulation.

9
10 The Health Commission hereby adopts this regulation for the orderly issuance of refuse
11 collection permits for routes at TI-YBI in which facilities that are under the management
12 and control of the City ("non-federal facilities"). This regulation serves to carry out the
13 City's responsibilities under federal, state, and local law which set forth requirements
14 for the handling of all City refuse. It also protects the public health and welfare by
15 regulating the companies that collect and transport refuse over City streets.

16 17 C. Scope

18
19 This regulation applies to Applicants proposing to collect refuse from routes in which
20 non-federal facilities at TI-YBI are located and provides both procedural and
21 substantive requirements for issuance of refuse collection permits. This regulation
22 does not govern the issuance of refuse collection permits for federal facilities at TI-YBI.

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1 D. Other Requirements

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3 In addition to complying with these regulations and the Initiative Ordinance, all
4 Permittees must comply with California Public Resource Code Section 40000 *et seq.*
5 and the requirements of Title 14 of the California Code of Regulations, Division 7,
6 Chapter 3, beginning at Section 17200 and all other applicable federal, state, and local
7 laws.

8
9 **II. APPLICATION PROCEDURES**

10
11 A. Filing Requirements

12
13 Any person proposing to provide refuse collection service for non-federal facilities at TI-
14 YBI, or to significantly modify an existing refuse collection permit issued pursuant to
15 this regulation, shall file a permit application with the Director of the Environmental
16 Health Management Section ("Director") containing information specified in Subsection
17 II.C of this regulation. An application filing fee as approved by the Board of
18 Supervisors made payable to the Department of Public Health must accompany the
19 application. Applicant's failure to submit the required filing fee shall render the
20 application incomplete. Application review time exceeding two hours will be billed at a
21 rate as approved by the Board of Supervisors.

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B. Showing of Need

For an Applicant applying for a new refuse collection permit, the application shall contain a demonstration of the need for a new permit based on one or more of the following reasons:

- 1. There is no permitted collector for the area(s) or route(s); or,
- 2. The currently permitted collector is providing inadequate service as defined in Section 4 of the Initiative Ordinance; or,
- 3. The issuance of a permit is in the public's interest and protects the public health and welfare; or,
- 4. The Applicant is a bona fide bidder for a refuse collection contract for non-federal facilities at TI-YBI.

Upon the satisfactory compliance with all requirements set forth in this regulation, the Director:

- i. May issue a Permit if the Applicant demonstrates a need pursuant to subparagraphs 1 or 2 of this subsection;
- ii. May issue a Permit or a Conditional Permit if Applicant demonstrates a need pursuant to subparagraph 3 of this subsection or;
- iii. May issue a Conditional Permit conditioning its validity on the award of the refuse collection contract to Applicant, if Applicant demonstrates a need pursuant to subparagraph 4 of this subsection. Each bona fide

1 bidder that satisfies the requirements of this Regulation may be issued a
2 Conditional Permit.

3
4 C. Qualifications of Applicant

5
6 Prior to deeming an application complete, the Director shall verify that Applicant
7 submitted the required filing fee and provided the following information:

8
9 1. General

- 10
11 a. Name and address of person(s) or organization applying for permit
12 or permit modification.
- 13 b. Name and phone number of contact person.
- 14 c. Date of submission of application.
- 15 d. Type of organization (partnership, corporation, etc).
- 16 e. Name and address of each partner or major stockholder with
17 holdings of over 5% of stock and of each key manager.
- 18 f. Five letters of recommendation or reference regarding Applicant's
19 capability as a refuse collection contractor. Such
20 recommendations or references shall be made within the last 3
21 years.
- 22 g. History, description, and outcome of all the Applicant's (including
23 the key managers) criminal, civil, and administrative violations in
24 the past ten (10) years.

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- 1 h. History and description of ongoing related party transaction(s)
- 2 (e.g., leases of trucks and equipment, subcontractors).
- 3 i. Description of area(s) or route(s) to be serviced.

4

5 2. Financial Responsibility

6

- 7 a. Audited financial statements, including Profit & Loss Statements,
- 8 Balance Sheets, and all required notes to the financial statements
- 9 for past five (5) years. Such financial statements shall be certified
- 10 by a Certified Public Accountant.
- 11 b. Evidence of ability to secure a performance bond or equivalent
- 12 security equal to the contract amount for up to six (6) months of
- 13 service or in an amount satisfactory to the Director.
- 14 c. Certificates of insurance in the amounts required by the contract,
- 15 or \$1 million per occurrence/\$2 million aggregate, whichever is
- 16 greater.
- 17 d. Description of any previous bankruptcies.
- 18 e. Other significant existing financial obligations (e.g., leases,
- 19 pending lawsuits).

20

21 3. Operational Competency

22

- 23 a. Statement of industry experience that is comparable to the level of
- 24 service required in the contract and/or required at the route(s)
- 25 served.

- 1 b. Resumes of key managers.
- 2 c. List of equipment to be utilized to collect and haul refuse under the
- 3 permit.
- 4 d. Location and description of office/maintenance facilities.
- 5 e. Description of Applicant's maintenance procedures.
- 6 f. Proposed service collection schedule.
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- 8 experience.
- 9 h. Description of major accidents in past five (5) years.
- 10 i. Worker's compensation experience modification factor for past five
- 11 (5) years.
- 12 j. Description of safety procedures.

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14 4. Program Compliance

15

- 16 a. Description of Applicant's proposed Waste Acceptance Control
- 17 Program to exclude hazardous and designated wastes.
- 18 b. Description of Applicant's complaint resolution procedures.
- 19 c. Copy of customer complaint log from a comparable refuse
- 20 collection operation for the previous five (5) years.

21

22 5. Attestation

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24 The Applicant or its authorized representative shall declare under the penalty of

25 perjury that the information provided in the application are true and correct.

1 6. Confidential Information

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3 If the Applicant requests that any part of the application remain confidential, a
4 statement of legal justification regarding the City's right to uphold the request.

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6 III. PERMIT PROCESS

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8 A. Determination of Completeness and Adequacy

9
10 Applicant may request a meeting with the Director to review the application for
11 completeness and adequacy within five (5) days from the filing of the application. If
12 requested by the Applicant, the Director shall meet with the Applicant within five (5)
13 days of the request.

14
15 The Director shall notify the Applicant within fifteen (15) days from the filing date
16 whether the application has been accepted as complete and adequate. If the Director
17 finds that the application is incomplete or inadequate, the Director shall notify the
18 Applicant in writing that the application is incomplete and inadequate and is not
19 accepted for filing. The Director shall identify all deficiencies in the application.

20
21 The Director shall have the discretion to either allow the Applicant up to a maximum of
22 five (5) days to cure all deficiencies cited or to reject the application.

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1 B. Notice of Completed Application

2
3 The Director shall provide notice of completed application to interested parties,
4 including, but not limited to, all existing refuse collection permittees for the facilities at
5 TI-YBI and other permit applicants. The Director shall publish the notice of completed
6 application in a newspaper of general circulation within the City and County of San
7 Francisco for two (2) days and not less than five (5) days prior to the expiration of the
8 time period to request a public hearing. The published notice shall state that the
9 Applicant has applied for a refuse collection permit at the specified route(s) and that a
10 public hearing will be held only if requested by an interested party or the public within
11 fourteen (14) days of the first publication of the notice of completed application. The
12 published notice shall specify the date at which the time period to request a public
13 hearing expires. The published notice shall specifically state that a Permit or a
14 Conditional Permit may be issued without a public hearing unless a timely request for a
15 hearing is made. The notice shall indicate that those requesting a hearing shall submit
16 a nominal fee in an amount approved by the Board of Supervisors made payable to the
17 Department of Public Health.

18
19 C. Notice of Hearing

20
21 If the Director receives a request for hearing within the time period set forth in
22 subsection III.B or in her or his discretion deems that a public hearing is in the public
23 interest, the Director shall set a public hearing on the application to occur within thirty
24 (30) days from the expiration of the time period set forth in subsection III.B. Notice of a
25 public hearing shall be given by publication in a newspaper of general circulation in the

1 City for at least two (2) days and not less than fifteen (15) days prior to the date of such
2 hearing. If more than one application is received for the same route(s), the Director
3 may postpone the hearing date to set a joint hearing for all pending completed
4 applications. Where multiple applicants are seeking a refuse collection permit for the
5 same route(s), a public hearing shall be held on all pending completed applications if a
6 request for a hearing is made for any of the pending completed applications.

7 8 D. Conduct of Public Hearing

9
10 The Director or her or his designee shall preside over the public hearing on the permit
11 application(s). Testimony shall be taken from the Applicant(s), City staff, and
12 interested members of the public. The Director shall accept written and oral testimony
13 at the hearing, and all oral testimony shall be recorded by an electronic recording
14 instrument. All oral testimonies shall be accompanied by written comments. All public
15 comments on the application(s) must be presented in written form by the close of the
16 hearing, unless otherwise specified by the Director.

17 18 E. Final Action on Permit Application

19
20 Within thirty (30) days of the public hearing, if any, or the notice of completed
21 application, the Director shall take final action on a completed permit application by
22 issuing a Permit, a Conditional Permit, a Modified Permit, or a permit denial, to the
23 Applicant. The decision on the completed permit application shall be accompanied by
24 a statement explaining the reasons for the Director's action, including a response to
25 any testimony presented at a public hearing (if any). The Director shall send a copy of

1 the decision and the statement to any person requesting a copy and to all persons who
2 presented testimony at the public hearing (if any). The Director's action shall be final at
3 the close of business on the fifteenth (15th) day following the issuance of the permit or
4 denial, unless an appeal is filed with the Board of Permit Appeals.

5
6 F. Due Date

7
8 If a deadline specified in this regulation falls on a weekend or a holiday, the deadline
9 shall be extended to close of business on the following business day.

10
11 IV. PERMIT PROVISIONS

12
13 A. Standards for Permit Issuance

14
15 The Director shall not issue a Permit or a Conditional Permit unless the Applicant
16 demonstrates:

- 17 1. A sufficient showing of need as required by Section II.B;
- 18 2. Sufficient financial ability;
- 19 3. Operational competence and experience;
- 20 4. Program compliance ability; and
- 21 5. The ability to provide high quality, professional collection and disposal
22 services in light of prevailing industry standards and applicable laws.

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1 B. Required Provisions

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3 A Permit or Conditional Permit shall be issued in accordance with the following terms
4 and conditions whether explicitly stated in the Permit or Conditional Permit or not:

- 5
6 1. Permitted activities shall be limited to the route(s) in which the non-
7 federal facilities at TI-YBI are located and for which the permittee has or
8 is bidding on a contract for;
- 9
10 2. The Permit or Conditional Permit is non-transferable;
- 11
12 3. The permittee shall comply with all applicable local, state, and federal
13 laws;
- 14
15 4. The permittee shall conduct operations in a safe, reliable, and
16 professional manner;
- 17
18 5. The permittee shall indemnify, defend, and hold harmless the City from
19 financial loss, damages, or claims (collectively or individually as "Claim"),
20 directly or indirectly, in whole or in part, arising out of or resulting from
21 any act or omission that is related to the subject matter of the Permit.
22 Permittee shall indemnify the City for the reasonable fees of attorneys,
23 consultants, and experts and related costs and the City's costs of
24 investigating any Claim. Permittee has an immediate and independent
25 obligation to defend the City from any Claim which actually or potentially

1 falls within the subject matter of the permit even if such allegation is or
2 may be groundless, fraudulent or false, which obligation arises at the time
3 such Claim is tendered to the Permittee by the City and continues at all
4 times thereafter. Permittee's obligation to indemnify, defend, and hold
5 harmless the City shall survive the expiration of the Permit;

6
7 6. The permittee shall comply with the City's solid waste program goals and
8 requirements, including compliance with the San Francisco Integrated
9 Waste Management Plan and the San Francisco Waste Acceptance
10 Control Program, as they may be amended from time to time;

11
12 7. The permittee shall maintain the disposal arrangements that conform to
13 Section 5 of the Initiative Ordinance, to the extent allowable by law;

14
15 8. The Permit or Conditional Permit shall be non-exclusive;

16
17 9. The Permit shall automatically terminate upon the expiration of the refuse
18 collection contract at non-federal facilities at TI-YBI unless the contracting
19 parties agree to extend the contract without significant changes to other
20 terms of the contract.

21
22 10. The permittee shall maintain evidence of financial responsibility such as a
23 performance bond or equivalent security, in a form and manner
24 acceptable to the Director.

25 ///

1 11. The permittee shall use only vehicles licensed pursuant to the Initiative
2 Ordinance.

3
4 C. Permit Modifications

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6 The Director may make minor modifications (e.g., change of vehicles, pickup locations
7 or times, name of company, or extension of the refuse collection contract without
8 significant substantive changes to the contract) to a permit upon request of the
9 permittee without holding a public hearing.

10
11 Modifications deemed major by the Director shall require submittal of a completed
12 permit application and a public hearing, if requested, under Sections II and III. The
13 Director may issue a Modified Permit due to a significant modification of a relevant
14 contract if the Applicant demonstrates:

- 15
16 1. The requested permit modification is required by the modified contract;
17 2. Sufficient financial ability, operational competence and experience to fulfill
18 its obligations under the modified contract; and
19 3. Program compliance ability under the modified contract.

20
21 Requests to expand an area for refuse collection shall require a new permit. The
22 Director may reopen an existing permit at any time to require a minor or major
23 modification.

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1 D. Permit Revocation

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3 The Director may revoke the permit of any permittee subjected to license revocation
4 under Section 9 of the Initiative Ordinance. The Director may revoke any permit, after
5 notice and a hearing held pursuant to the procedure outlined in Section III, upon a
6 determination that the permittee has filed a false application, has failed to comply with
7 the permit or other requirements of law, or has provided inadequate service as
8 provided in Section 4 of the Initiative Ordinance. Notwithstanding the requirement for a
9 request for public hearing in Section III, a public hearing shall be held before revocation
10 of the Permit.

11

12 E. Emergency Permits

13

14 Upon the submittal of a written request, the Director may issue a temporary emergency
15 permit without a hearing when necessary to protect the public health and to ensure the
16 continuity of refuse collection service. An Applicant for an emergency permit shall
17 submit a request for the emergency permit and a statement describing the cause and
18 nature of the emergency. The Director, in her or his discretion, may assess an
19 emergency permit fee of up to an amount approved by the Board of Supervisors. In
20 assessing the emergency permit fee, the Director shall consider the Applicant's degree
21 of culpability in causing the emergency. Emergency permits shall expire upon
22 issuance of a permit under Sections II and III of this regulation or 120 days, whichever
23 is sooner.

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