

FIRST AMENDMENT TO CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT

THIS FIRST AMENDMENT TO CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT ("Amendment") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY") and THE RESOURCE MANAGEMENT GROUP, INC, a California corporation ("PERMITTEE"), to be effective as of **November 1, 2009** (the "Effective Date") when signed by the parties and approved by the San Diego City Attorney, as follows:

RECITALS

- A. CITY and PERMITTEE are parties to that certain CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT (the "Permit") dated January 17, 2008.
- B. Under the Permit, PERMITTEE currently occupies a "Permit Area" of approximately 1.56 acres (68,060 square feet), as more particularly described in the Permit.
- C. PERMITTEE has requested a change in the use of the Permit Area.

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

- 1. Use. Section 2. Permit Use shall be replaced with the following:
 - 2. **Use of the Permit Area**. PERMITTEE may enter upon and use the Permit Area for bailing recyclable commodity materials, storage of roll-off metal containers, recyclable materials, and trucks. PERMITTEE shall not allow any person to clean or maintain vehicles or equipment within the Permit Area. Notwithstanding any provision of this Permit to the contrary, PERMITTEE'S unauthorized use of the Permit Area shall be a default and subject this Permit to immediate termination at CITY'S sole option.
- 2. Term. Section 3. Term shall be replaced with the following:
 - 3. **Term**. The term of this Permit ("Term") shall be three (3) years, commencing on January 1, 2008. PERMITTEE may terminate this Permit at any time upon thirty (30) days prior written notice to CITY.
- 4. Insurance. Section 12. Insurance shall be replaced with the following:
 - 12. **Insurance**. PERMITTEE shall deliver to CITY'S Real Estate Assets Department a current certificate of insurance for:
 - i. **Commercial General Liability Insurance, providing coverage for bodily injury, including death, personal injury, and property damage with limits of at least One Million Dollars (\$1,000,000) per occurrence, subject to an annual aggregate of at least Two Million Dollars (\$2,000,000);**

- ii. **Automobile Liability Insurance**, providing coverage for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated in performing any and all work pursuant to this Permit. Coverage shall be written on *ISO form CA 00 01 12 90*, or a substitute form providing equivalent liability coverage; and
 - iii. **Workers' Compensation Insurance**, as required by the laws of the State of California for all of PERMITTEE'S employees who are subject to this Permit, with Employers' Liability coverage with a limit of at least One Million Dollars (\$1,000,000).
- 12.1 **Additional Insureds**. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials, officers, employees, representatives, and agents" shall be named as additional insureds in all policies.
 - 12.2 **Primary & Non-Contributory**. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY.
 - 12.3 **Qualified Insurer(s)**. All insurance required by the terms of this Permit must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to CITY. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet CITY requirements.
 - 12.4 **Deductibles/Retentions**. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of PERMITTEE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.
 - 12.5 **Continuity of Coverage**. All policies shall be in effect on or before the first day of the Term, except "course of construction fire insurance" shall be in force on commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. The policies shall be kept in force for the duration of the Term. At least thirty (30) days prior to the expiration of each insurance policy, PERMITTEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Permit. PERMITTEE shall provide proof of continuing insurance at least annually during the Term. If insurance lapses or is discontinued for any

reason, PERMITTEE shall immediately notify CITY and obtain replacement insurance as soon as possible.

12.6 Modification. To assure protection from and against the kind and extent of risk existing with the Permit Use or the Permit Area, CITY, at its discretion, may require the revision of amounts and coverage at any time during the Term by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY'S reasonable re-evaluation of risk levels related to the Permit Use or the Permit Area.

12.7 Accident Reports. PERMITTEE shall immediately report to CITY any accident causing property damage or injury to persons and related to the Permit Use or the Permit Area. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

12.8 Causes of Loss - Special Form Property Insurance. PERMITTEE shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of PERMITTEE'S insurable property related to the Permit Use or the Permit Area in an amount to cover 100 percent (100%) of the replacement cost. PERMITTEE shall deliver to CITY a certificate of such insurance.

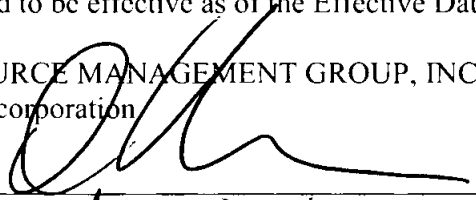
5. **No Other Changes.** Except as may render the terms of this Amendment inoperable, all other terms and conditions of the Permit shall remain in full force and effect. Any conflict between the terms and conditions of the Permit and those of this Amendment shall be resolved in favor of this Amendment.

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6. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Permit is binding upon such person or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

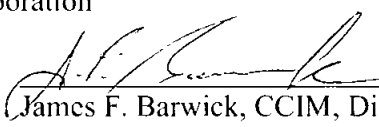
IN WITNESS WHEREOF this Amendment is executed to be effective as of the Effective Date:

THE RESOURCE MANAGEMENT GROUP, INC.,
a California corporation

BY: 

Name: Armen Derderian
Title: President

THE CITY OF SAN DIEGO, a California municipal
corporation

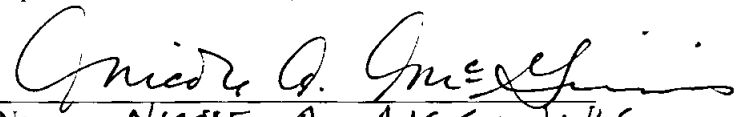
BY: 

James F. Barwick, CCIM, Director
Real Estate Assets Department

ENVIRONMENTAL ANALYSIS SECTION ENVIRONMENTAL CLEARANCE:

This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15301.

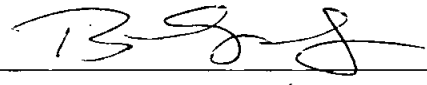
Date: 11/17/09

BY: 

Name: NICOLE A. MCGINNIS
Title: SENIOR PLANNER

APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH, San Diego City Attorney

BY: 

Name: BRUCE LADWIG
Deputy City Attorney