



REPORT TO THE CITY COUNCIL

Presented to City Council

Date 10/7/08

Disposition rec approved
Res. 2008-277 adopted

AGENDA ITEM NO.

9:15 A.M # 2

COUNCIL MEETING

10/7/08

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

October 7, 2008

FROM: KEITH BERGTHOLD, Interim Director
Planning and Development Department

SUBJECT: ADOPTION OF A RESOLUTION APPROVING A 40-DAY SUSPENSION OF THE ENFORCEMENT OF MUNICIPAL CODE SECTION 12-405-G; AND APPROVAL OF AN AGREEMENT FOR THE EARLY ISSUANCE OF PERMITS WITH ELECTRONIC RECYCLERS INTERNATIONAL.

RECOMMENDATION

Staff recommends that the City Council adopt the attached Resolution approving a 40-day suspension of enforcement of Municipal Code Section 12-405-G, and that the City Council approve an agreement for the issuance of special permits with Electronic Recyclers International.

BACKGROUND

Electronic Recyclers International (ERI) currently operates the largest electronics recycling plant in the western United States at its plant located at 2860 S. East Avenue and 3243 S. East Avenue. ERI currently processes 28,000 tons of electronic waste, and employs over 220 people, many of whom are former gang members. Due to the success of ERI's operations, it is expanding to a 299,000 square foot location at 2343 S East Avenue. This expansion will include the installation of \$5 million of state of the art shredding equipment, and will result in an additional 60 employees. While the operations of ERI are consistent with the current zoning of the property, the nature of the business, recycling, triggers the requirement of the issuance of a CUP. This process is currently underway, but will not be completed until early November 2008.

Electronic Recyclers International has the number one market share in the State of California, in which they service over 300 corporation's electronic recycling needs by providing electronic shredding services. ERI has contracted a specific high volume product flow which is scheduled to begin on November 15th.

As such, staff had originally proposed issuing an "at-risk" permit for the installation of the equipment. Such a permit would have allowed ERI to install the equipment and make the necessary improvements to the facility, but would not have allowed a certificate of occupancy until such time as the CUP process had been completed. If the CUP had not been issued, ERI would have been obligated to remove the equipment. These types of at-risk permits have been previously issued for grading permits. Unfortunately, while working with the City attorney's Office on the issuance of the at-risk permit, it was noted that Municipal Code Section 12-405-G does not allow staff to issue a permit before the entitlement process has been completed. Therefore, staff is requesting that the City Council suspend the enforcement of Municipal Code Section 12-405-g for a 40 day period, which would allow the issuance of an at-risk permit for this project. Staff is also requesting that the City Council approve an agreement with ERI which will provide the specific terms of the agreement for the issuance of the at-risk permits.

SUSPENSION OF ENFORCEMENT OF MUNICIPAL CODE SECTION 12-405-G

As noted, FMC Section 12-405-G states "No permit required by this Code, including but not limited to building, occupancy, electrical and sign permits, shall be issued for a use or development requiring a special permit until such special permit is obtained. No such permit shall be issued until the Director is assured that all terms and conditions of any applicable special permit and this Zoning Ordinance shall be complied with." Therefore, staff is requesting that the City Council adopt the attached resolution which would suspend the enforcement of Municipal Code Section 12-405-G for a 40 day period. This will allow staff to enter into the attached agreement with ERI and issue an at-risk permit for the installation of the tenant improvements at the location. The resolution specifically states that "In no circumstances will a certificate of occupancy be issued or a project be allowed to operate without an approved special permit." The resolution also reserves the City's discretion in processing, consideration, and approval of any permit related to the project, and is limited to properties zoned M-3 (*Heavy Industrial District*).

As the resolution applies to properties zoned M-3, other applicants that are currently in the permitting process would also be able to enter similar agreements with the City, which would be based upon their unique circumstances.

AGREEMENT FOR ISSUANCE OF EARLY PERMITS

If the Council approves the above noted resolution, staff is also requesting that the Council approve the Agreement For Early Issuance of Permits with ERI which sets the specific terms for the issuance of the at-risk permits. The agreement specifically notes that the City is unwilling to permit or inspect any of the construction without assurances that no vested rights or entitlements are conferred by the issuance of the permits or the inspection of such construction. The agreement also states that if a CUP is not approved within 60 days of the execution of the Agreement, then ERI shall remove any improvements or construction within 10 of receiving a written notice from the City. The Agreement also requires a refundable \$5,000 which would be used by the City to defray expenses of removal of equipment should a CUP not be issued. If the CUP is issued, the funds will be returned to ERI.

FISCAL IMPACT OF RECOMMENDATIONS

None

Attachments: Resolution
Agreement

AGREEMENT FOR EARLY ISSUANCE OF PERMITS

THIS AGREEMENT is made this 9th day of October , 2008, by and between the **CITY OF FRESNO**, a Municipal Corporation, hereinafter referred to as the "City," and **ELECTRONIC RECYCLERS INTERNATIONAL, INC, a Delaware Corporation**, hereinafter referred to as the "Applicant," without regard for number or gender.

RECITALS

A. The Applicant has leased real property situated in the City of Fresno, County of Fresno, State of California, hereinafter referred to as the "Subject Property" and located at 3243 S. East Avenue, Fresno, California (APN 329-110-11S).

B. The Applicant has filed with the City of Fresno Planning and Development Department an application for a Conditional Use Permit to operate a Recycling Facility at the Subject Property.

C. The Applicant is requesting the issuance of permits to construct the tenant improvements and install the necessary equipment at the Subject Property prior to the City's final approval of the Conditional Use Permit.

E. Such permits will be issued and inspected in accordance with City of Fresno codes and regulations.

G. The City is unwilling to permit such construction or inspect same without assurance that no vested rights (common law or statutory) or entitlements will be conferred by the early issuance of such permits or by the acceptance of such construction upon inspection.

H. The Applicant acknowledges that such improvements will be accepted by the City only if they comply with all applicable City standards, codes, and ordinances, provided, and in no case shall acceptance of such improvements be complete until Conditional Use Permit application no. C-08-238 is approved by the City.

I. Applicant understands and acknowledges that the improvements described herein

shall be subject to acceptance or rejection by the City upon inspection thereof, and upon the terms and conditions contained herein.

J. It is extremely important to the Applicant that the permits for the tenant improvements be issued as soon as possible.

K. The action for the approval of the Conditional Use Permit is not expected to be finalized for up to sixty (60) days.

AGREEMENT

In consideration of the foregoing, the early issuance of permits for the tenant improvements at the Subject Property and the promises and covenants herein contained, the undersigned agree:

1. The City shall issue all necessary permits to allow Applicant to complete the necessary tenant improvements at the Subject Property prior to the approval of Conditional Use Permit Application No. C-08-238. However, the City shall not issue a certificate of occupancy for the Subject Property or permit Applicant to begin to operate at the Subject Property until the Conditional Use Permit has been approved and the time to appeal the approval has expired. Furthermore, Applicant shall not attempt to occupy the Subject Property or begin business operations at the Subject Property until the City has issued the Certificate of Occupancy for the Subject Property.

2. The issuance of the permits to allow for the installation of tenant improvements at the Subject Property in no way obligates the City to approve Conditional Use Permit Application No. C-08-238 or any other special permit application filed by Applicant for the Subject Property. Should the City of Fresno fail to approve Conditional Use Permit Application No. C-08-238 for any reason within sixty (60) days of the execution of this Agreement, the Applicant shall, within ten (10) days after written notice from the Director of the Planning and Development Department of the City of Fresno, remove from the Subject Property any improvements or structures placed or constructed pursuant to the permits issued for the tenant improvements; and Applicant shall restore the Subject Property to its prior condition.

3. Should the Applicant fail to comply with the provisions of Paragraph 1 above, the City

of Fresno, or any of its duly authorized officers, employees or agents, are unconditionally permitted to enter upon the Subject Property and accomplish such removal and restore the Subject Property to its prior condition.

4. Should the City of Fresno cause such removal under the provisions of Paragraph 2 hereof, the Applicant shall hold harmless and defend the City, its officers, employees and agents from any claims, lawsuits, costs, liability, damages or expenses, including costs of suit and fees and expenses for legal services, on account of any damages claimed by any reason to have occurred by reason of such removal.

5. To assure the promises herein contained, the Applicant shall deliver to the City of Fresno a Certificate of Deposit made payable only to the City of Fresno for the amount of \$5,000.00. This deposit may be used by the City to defray all or part of the costs and expenses of removal with any balance to be returned to the Applicant. After the action by the City approving the special permit and the time to appeal the approval of the special permit has expired, the deposit will be returned to the Applicant.

6. The obligations of the Applicant provided in this Agreement are joint and several.

7. This Agreement shall in no way be construed as a grant by the City of any rights to the Applicant to trespass upon land rightfully in the possession of, or owned by, another, whether such land be privately or publicly owned.

8. No vested rights or entitlements are conferred by the issuance of this early construction permit or by acceptance of any improvements constructed thereunder.

9. Indemnification. To the furthest extent allowed by law, Applicant shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Applicant or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen

directly or indirectly out of the City's issuance of any permits pursuant to this Agreement, the performance of this Agreement or the performance of any or all work to be done in and upon the Subject Property, or premises adjacent thereto pursuant to this Agreement. Applicant's obligations under the preceding sentence shall apply regardless of whether Applicant or any of its officers, officials, employees or agents are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or the willful misconduct, of City or any of its officers, officials, employees, agents or volunteers.

If Applicant should subcontract all or any portion of the work to be performed under this Agreement, Applicant shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph in this Section 10. Notwithstanding the preceding sentence, any subcontractor who is a "design professional" as defined in Section 2782.8 of the California Civil Code shall, in lieu of indemnity requirements set forth in the preceding paragraph of this Section 10, be required to indemnify, hold harmless and defend City and each of its officers, officials, employees, agency and volunteers to the furthest extent allowed by law, from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

The Applicant further agrees that the use for any purpose and by any person of any and all of the tenant improvements hereinbefore specified, shall be at the sole and exclusive risk of the Applicant at all times prior to final approval by the City of the completed tenant improvements. This

section shall survive termination or expiration of this Agreement.

10. Insurance. Throughout the life of this Agreement, Applicant shall pay for and maintain in full force and effect all policies of insurance described in this section with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Best's Insurance Rating Guide, or (ii) authorized by CITY'S Risk Manager. The following policies of insurance are required:

a. COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and shall include insurance for bodily injury, property damage and personal and advertising injury with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, contractual liability (including indemnity obligations under this Agreement), with limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage, \$1,000,000 per occurrence for personal and advertising injury and \$1,000,000 aggregate for products and completed operations.

b. COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Business Auto Coverage Form CA 00 01 and shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 Any Auto), with combined single limits of liability of not less than \$1,000,000 per accident for bodily injury and property damage.

c. PROFESSIONAL LIABILITY (Errors and Omissions) insurance appropriate to the respective person's profession (applicable only to those subcontractors who are providing Professional Services to the Applicant), with limits of liability of not less than \$1,000,000 per claim/occurrence and policy aggregate.

d. WORKERS' COMPENSATION insurance as required under the California Labor Code.

e. EMPLOYERS LIABILITY with minimum limits of liability of not less than \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

Applicant shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Applicant shall also be responsible for payment of any self-insured retentions.

The above described policies of insurance shall be endorsed to provide an unrestricted 30 calendar day written notice in favor of City of policy cancellation of coverage, except for the Workers' Compensation policy which shall provide a 10 calendar day written notice of such cancellation of coverage. **In the event any policies are due to expire during the term of this Agreement, Applicant shall provide a new certificate evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy(ies).** Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, Applicant shall file with City a new certificate and all applicable endorsements for such policy(ies).

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Applicant's insurance shall be primary and no contribution shall be required of City. In the event claims made forms are used for any Professional Liability coverage, either (i) the policy(ies) shall be endorsed to provide not less than a 5 year discovery period, or (ii) the coverage shall be maintained for a minimum of 5 years following the termination of this Agreement and the requirements of this section relating to such coverage shall survive termination or expiration of this Agreement. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. **Applicant shall have furnished City with the certificate(s) and applicable endorsements for ALL required insurance prior to City's execution of the Agreement.** Applicant shall furnish City with copies of the actual policies upon the request of City's Risk Manager at any time during the life of the Agreement or any extension, and this requirement shall survive termination or expiration of this Agreement.

The fact that insurance is obtained by Applicant or his/her/it=s subcontractors shall not be deemed to release or diminish the liability of Applicant, or his/her/it=s subcontractors including

without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City, its officers, officials, agents, employees and volunteers, shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Applicant or his/her/it=s subcontractors. Approval or purchase of any insurance contracts or policies shall in no way relief from liability nor limit the liability of Applicant, its principals, officers, agents, employees, persons under the supervision of Applicant, vendors, suppliers, invitees, subcontractors, consultants or anyone employed directly or indirectly by any of them.

If at any time during the life of the Agreement or any extension, Applicant fails to maintain the required insurance in full force and effect, the Director of Public Works, or his/her designee, may order that the Applicant, or its contractors or subcontractors, immediately discontinue any further work under this Agreement and take all necessary actions to secure the work site to insure that public health and safety is protected. All payments due or that become due to Applicant shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement.

If Applicant should subcontract all or any portion of the services to be performed under this Agreement, Applicant shall require each subcontractor to provide insurance protection in favor of City, its officers, officials, employees, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Applicant and City prior to the commencement of any work by the subcontractor.

11. In the event the City approves Conditional Use Permit No. C-08-238 and the time to appeal the approval has expired, the foregoing deposit shall be returned to the Applicant and this Agreement shall be of no further force and effect.

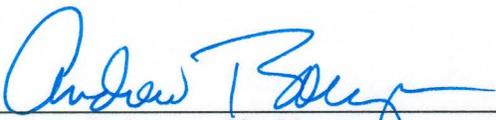
12. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

* * *

The parties have executed this Agreement on the day and year first above written.

CITY OF FRESNO,
a Municipal Corporation

Andrew T. Souza
City Manager

By: 
Andrew T. Souza, City Manager
10/9/08

APPLICANT:

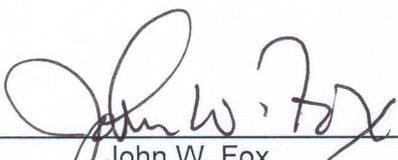
ELECTRONIC RECYCLERS, INC.
a Delaware Corporation

By: 
Linda L. Ramos, Secretary
10/8/08

APPROVED AS TO FORM:

(Attach Notary Acknowledgment)

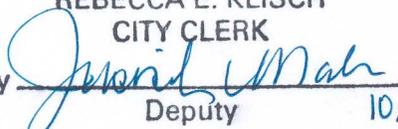
JAMES C. SANCHEZ
City Attorney

By: 
John W. Fox
Deputy City Attorney

Date: 10/10/2008

ATTEST:

REBECCA E. KLISCH
CITY CLERK

By: 
Deputy
10/10/08

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno }

On October 8, 2008 before me, Sonja M. Fabbian
Date Here Insert Name and Title of the Officer

personally appeared Linda L. Ramos
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Sonja M. Fabbian
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

OK Daniel Turner 10/10/08

ACORD CERTIFICATE OF LIABILITY INSURANCE OP ID DN
ELECT-3 DATE (MM/DD/YYYY)
10/10/08

PRODUCER
Winton-Ireland - Modesto
Lic#0596517
1100 14th Street, Suite C
Modesto CA 95354
Phone: 209-529-3480 Fax: 209-529-6963

INSURED

Electronic Recyclers
International Inc.
P. O. Box 2428
Fresno CA 93745

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

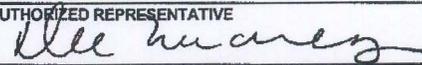
INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Westchester Surplus Lines	
INSURER B: Golden Eagle Ins Corporation	
INSURER C: Cypress Insurance Company	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L	LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X			GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Limit: \$1,000,000 THIRD PARTY PREMISES <input type="checkbox"/> POLLUTION - CLAIMS MADE GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	G23829915001	01/12/08	01/12/09	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMP/OP AGG \$ 2000000
B	X			AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	CBP8379374	01/12/08	01/12/09	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
				GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AGG \$
A				EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	G23829927001	01/12/08	01/12/09	EACH OCCURRENCE \$ 4000000 AGGREGATE \$ 4000000
C				WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	3300053179081	06/01/08	06/01/09	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1000000 E.L. DISEASE - EA EMPLOYEE \$ 1000000 E.L. DISEASE - POLICY LIMIT \$ 1000000
				OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 The City of Fresno, its officers, officials, employees, agents and volunteers are additional insured as respects to general liability per attached CG2026 11/85 endorsement which includes primary wording. Additional insured as respects to automobile liability per applies per form GECA701 01/07. Waiver of subrogation applies to the workers compensation per form WC990402A.

CERTIFICATE HOLDER CITYF-1 City of Fresno % Planning & Development Attn: Craig Agabashian 2600 Fresno St., Rm 3065 Fresno CA 93721	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

NOTEPAD:

INSURED'S NAME *Electronic Recyclers*

ELECT-3

PAGE 3

OPID DN

DATE 10/10/08

10 day notice of cancellation for non payment of premium.

POLICY NUMBER: G23829915 001

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

The City of Fresno, its officers, officials, employees, agents and volunteers. Such insurance as if afforded by the policy is primary and any other insurance shall be excess and not contribute to the insurance afforded by this endorsement.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your operations or premises owned by or rented to you.

COMMERCIAL AUTO GOLD ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SECTION II – LIABILITY COVERAGE

A. COVERAGE

1. WHO IS AN INSURED

The following is added:

- d. Any organization, other than a partnership or joint venture, over which you maintain ownership or a majority interest on the effective date of this Coverage Form, if there is no similar insurance available to that organization.
- e. Any organization you newly acquire or form other than a partnership or joint venture, and over which you maintain ownership of a majority interest. However, coverage under this provision does not apply:
 - (1) If there is similar insurance or a self-insured retention plan available to that organization; or
 - (2) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.
- f. Any volunteer or employee of yours while using a covered "auto" you do not own, hire or borrow in your business or your personal affairs. Insurance provided by this endorsement is excess over any other insurance available to any volunteer or employee.
- g. Any person, organization, trustee, estate or governmental entity with respect to the operation, maintenance or use of a covered "auto" by an insured, if:
 - (1) You are obligated to add that person, organization, trustee, estate or governmental entity as an additional insured to this policy by:
 - (a) an expressed provision of an "insured contract", or written agreement; or
 - (b) an expressed condition of a written permit issued to you by a governmental or public authority.
 - (2) The "bodily injury" or "property damage" is caused by an "accident" which takes place after:
 - (a) You executed the "insured contract" or written agreement; or
 - (b) the permit has been issued to you.

2. COVERAGE EXTENSIONS

a. Supplementary Payments.

Subparagraphs (2) and (4) are amended as follows:

- (2) Up to \$2500 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "Insured" at our request, including actual loss of earning up to \$500 a day because of time off from work.

SECTION III – PHYSICAL DAMAGE COVERAGE

A. COVERAGE

The following is added:

5. Hired Auto Physical Damage

a. Any "auto" you lease, hire, rent or borrow from someone other than your employees or partners or members of their household is a covered "auto" for each of your physical damage coverages.

b. The most we will pay for "loss" in any one "accident" is the smallest of:

(1) \$50,000

(2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

If you are liable for the "accident", we will also pay up to \$500 per "accident" for the actual loss of use to the owner of the covered "auto".

c. Our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by an amount that is equal to the amount of the largest deductible shown for any owned "auto" for that coverage. However, any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

d. For this coverage, the insurance provided is primary for any covered "auto" you hire without a driver and excess over any other collectible insurance for any covered "auto" that you hire with a driver.

6. Rental Reimbursement Coverage

We will pay up to \$75 per day for up to 30 days, for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto". Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for a period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your materials and equipment from the covered "auto".

If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under paragraph 4. **Coverage Extension.**

7. Lease Gap Coverage

If a long-term leased "auto" is a covered "auto" and the lessor is named as an Additional Insured – Lessor, In the event of a total loss, we will pay your additional legal obligation to the lessor for any difference between the actual cash value of the "auto" at the time of the loss and the "outstanding balance" of the lease.

"Outstanding balance" means the amount you owe on the lease at the time of loss less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; and lease termination fees.

B. EXCLUSIONS

The following is added to Paragraph 3

The exclusion for "loss" caused by or resulting from mechanical or electrical breakdown does not apply to the accidental discharge of an airbag.

Paragraph 4 is replaced with the following:

4. We will not pay for "loss" to any of the following:
 - a. Tapes, records, disks or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
 - b. Equipment designed or used for the detection or location of radar.
 - c. Any electronic equipment that receives or transmits audio, visual or data signals.

Exclusion 4.c does not apply to:

- (1) Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or
- (2) Any other electronic equipment that is:
 - (a) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or
 - (b) An integral part of the same unit housing any sound reproducing equipment described in (1) above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

D. DEDUCTIBLE

The following is added: No deductible applies to glass damage if the glass is repaired rather than replaced.

SECTION IV. BUSINESS AUTO CONDITIONS

A. LOSS CONDITIONS

Item 2.a. and b. are replaced with:

2. **Duties In The Event of Accident, Claim, Suit, or Loss**
 - a. You must promptly notify us. Your duty to promptly notify us is effective when any of your executive officers, partners, members, or legal representatives is aware of the accident, claim, "suit", or loss. Knowledge of an accident, claim, "suit", or loss, by other employee(s) does not imply you also have such knowledge.
 - b. To the extent possible, notice to us should include:
 - (1) How, when and where the accident or loss took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the accident or loss.

The following is added to 5.

We waive any right of recovery we may have against any additional insured under **Coverage A. 1. Who Is An Insured g.**, but only as respects loss arising out of the operation, maintenance or use of a covered "auto" pursuant to the provisions of the "insured contract", written agreement, or permit.

B. GENERAL CONDITIONS

9. is added

9. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Your unintentional failure to disclose any hazards existing at the effective date of your policy will not prejudice the coverage afforded. However, we have the right to collect additional premium for any such hazard.

COMMON POLICY CONDITIONS

2b. is replaced by the following:

- b. 60 days before the effective date of cancellation if we cancel for any other reason.

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**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA
PER-PROJECT (SPECIFIC) BASIS**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 5.00 % of the California workers' compensation premium otherwise due on such remuneration subject to a policy maximum charge for all such waivers of 5.00 % of risk standard premium.

The minimum premium for this endorsement is \$ 350.00

Schedule

Person or Organization

THE CITY OF FRESNO
2600 FRESNO STREET; RM 3065; FRESNO, CA 93721

Job Description

ALL CALIFORNIA OPERATIONS

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 06/01/2008

Policy No.3300053179-081

Endorsement No. 2

Insured ELECTRONIC RECYCLERS INTERNATIONAL, INC.

Premium \$

Insurance Company

Cypress Insurance Company

Countersigned by _____

CITY'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)

On _____, before me, _____,
Deputy City Clerk personally appeared, _____,
proved to me on the basis of satisfactory evidence, to be the persons(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument(s) the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal

REBECCA E. KLISCH, CMC
City Clerk, City of Fresno

By: _____
DEPUTY

ATTEST:
REBECCA E. KLISCH
CITY CLERK

By _____
Deputy

CITY CLERK'S CERTIFICATION

I, Jennifer Morelos, Deputy City Clerk of the City of Fresno, California, hereby certify the foregoing to be a full, true and correct copy of the original **Agreement for Early Issuance of Permits; Adopted on October 7, 2008;** on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Fresno, California, this 10th day of October, 2008.

REBECCA E. KLISCH, CMC
City Clerk, City of Fresno

By _____
Deputy

RECEIVED
OCT 10 2008