

ORDINANCE NO. _____

**BEFORE THE CITY COUNCIL
FOR THE CITY OF MOSIER, OREGON**

**AN ORDINANCE GRANTING AN EXCLUSIVE FRANCHISE TO WASTE CONNECTIONS
OF OREGON, INC., D/B/A THE DALLES DISPOSAL, FOR THE COLLECTION OF SOLID
WASTE AND RECYCLABLE MATERIAL FROM CUSTOMERS WITHIN THE CITY OF
MOSIER**

The City Council for the City of Mosier ordains as follows:

Section 1: The Parties. The following are the parties to this Franchise:

The Franchisee:

Waste Connections of Oregon, Inc.
d/b/a The Dalles Disposal
1317 West 1st Street
The Dalles, OR 97058
Phone: (541) 298-5149

The City of Mosier:

Mosier City Manager
P.O. Box 456
Mosier, OR 97040
Phone: (541) 478-3505

Section 2: Definitions. The following definitions shall apply in the interpretation, administration, and enforcement of this Franchise:

- A. "Approved container" means: (i) a Franchisee-owned receptacle with two (2) wheels and a properly designed axle and fittings, and a top lid that is to remain closed except when loading waste, with a body consisting of approximately ninety-six (96) gallons in capacity, constructed of heavy duty plastic and attachments for loading into the Company's collection vehicle; or (ii) such other Franchisee-owned receptacle used for commercial entities.
- B. "Collection day" means the day(s) of the week designated by Franchisee for each customer to receive the services.
- C. "Commercial entity" means each business, school, church, or other commercial enterprise within the service area.
- D. "Customers" means residential units and commercial entities located within the service area.

- E. "Excluded waste" means any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous material as defined by applicable federal, state, or local laws or regulations.
- F. "Landfill" means the Wasco County Landfill or such other facility for disposal of solid waste on land in a sanitary manner in accordance with the rules, regulations, laws, and ordinances of the State of Oregon.
- G. "Person" means an individual, a private or public corporation, local governmental unit, a public agency, partnership, association, firm, trust, estate, or any other legal entity.
- H. "Recyclable material" means any material or collection of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the material, but the term does not include Excluded Waste.
- I. "Residential unit" means a dwelling within the Service Area, occupied for at least a portion of the relevant month by a person or group of persons. Each unit of an apartment or condominium dwelling consisting of four (4) or less living units, whether of single or multi-level construction, shall be treated as a Residential Unit.
- J. "Service" means: (a) collection of solid waste placed by customers in approved containers, and transportation and disposal of such material; and (b) where applicable, collection of recyclable materials placed by customers in approved containers, and transportation and sale of recyclable materials; all subject to the terms and conditions of this Franchise.
- K. "Service area" means the incorporated limits of the City of Mosier, including any areas which may be annexed by the City of Mosier.
- L. "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage; rubbish; refuse; ashes; mixed municipal solid waste, waste paper; cardboard; demolition and construction debris; discarded or abandoned vehicle parts; unused home or industrial appliances stored outside or visible from the public right-of-way; tires and other municipal solid wastes, but the term does not include:
 - (1) Hazardous wastes as defined in ORS 466.005; and
 - (2) Materials used for fertilizer or other productive agricultural purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops or the raising of animals; and
 - (3) Excluded Waste.
- M. "Yard debris" means yard trimmings resulting from private landscaping and regular yard maintenance, but the term does not include Excluded Waste.

Section 3: Grant of Franchise. The City Council hereby grants to Waste Connections of Oregon, Inc. d/b/a The Dalles Disposal, an Oregon corporation, doing business in Wasco County, Oregon, hereinafter

referred to as the "Franchisee," the exclusive right, franchise and privilege, hereinafter referred to as this "Franchise," of collecting from customers in the City of Mosier, hereinafter referred to as the "City," and hauling over the public streets and ways within the City all solid waste and recyclable material. Except as specifically excepted in the next section, it shall be unlawful for any person to collect and/or transport solid waste or recyclable material within the City without first having obtained a franchise to do so. This Franchise is not exclusive, however, with regard to the collection of yard debris within the City's corporate limits. In the event that yard debris is offered on a scheduled basis within the City's corporate limits, the City will provide Franchisee with the opportunity to provide such service. The City also grants Franchisee a right of first refusal to match any offer the City receives (or makes) related to the provision of yard debris services to customers within the City's corporate limits, and the City shall give Franchisee prompt written notice of any such offer and a reasonable opportunity (but in any event at least five (5) business days from receipt of such notice) to respond.

The City may, in its sole discretion, choose to enforce the exclusivity provisions of this Franchise against third-party violators, taking into account the cost of doing so and other factors. The Franchisee may independently enforce the exclusivity provision of this Franchise against third-party violators, including but not limited to seeking injunctive relief and/or damages, and the City shall use good-faith efforts to cooperate in such enforcement actions brought by the Franchisee.

The Franchisee shall have the right, unless and until receipt of written notice revoking permission to pass is delivered to the Franchisee, to enter and drive upon any private street, court, place, easement, or other private property of any customer within the City, for the purpose of collecting or transporting solid waste and recyclable material pursuant to this Franchise.

Customers receiving services within the City shall not deposit in Franchisee's equipment or place for collection by Franchisee any Excluded Waste. Title to and liability for any Excluded Waste shall always remain with the customer and/or generator of such Excluded Waste, even if Franchisee inadvertently collects and disposes of such Excluded Waste. Notwithstanding any other term contained herein, Franchisee shall have no obligation to collect, haul, or otherwise perform any services relating to any material which is or contains, or which Franchisee reasonably believes to be or contain, Excluded Waste.

Section 4: Exceptions to Grant of Franchise. This Franchise is subject to the following exceptions:

- A. A person may transport solid waste that such person produces (self-haul), directly to an authorized disposal site or recycling or resource recovery facility. Provided, however, that the solid waste produced by a tenant, licensee, occupant, or person other than the owner of the leased, occupied, or licensed premises may be considered produced by the landlord or property owner; but provided further, that owners or groups of owners may not join for the purpose of commercially transporting solid waste from properties of differing ownership.
- B. A person may contract with the State or a federal agency to provide service to such agency under a written contract with such agency.
- C. A person may engage in the practice of towing or otherwise removing damaged, discarded, or abandoned vehicles or parts thereof, so long as such activity is conducted in compliance with applicable state and local laws.

- D. A person may engage in the practice of pumping, transportation, and disposal of septic tank and cesspool pumpings or other sludge, provided that such activity is conducted in compliance with all applicable state and local laws.
- E. A person who engages in an occupation, such as gardener, landscaper, grounds-keeper, or construction contractor for a property owner or tenant within the City and who produces thereby small volumes of solid waste as a result of such work for a property owner or tenant in the City, may transport such solid waste in such person's own equipment where the solid waste produced is incidental to the particular job the person is performing.
- F. Nonprofit, religious, charitable, youth and community service organizations may collect recyclable material without a franchise.

Section 5: Franchise Fee.

- A. In consideration of the granting of this Franchise, the Franchisee hereby agrees to pay the City a franchise fee, payable quarterly, equal to seven percent (7%) of its gross receipts collected from customers within the City; provided, however, that the Franchisee may add (*i.e.*, pass-through) the amount of such franchise fee to the rates charged to customers for solid waste collection services. The franchise fee shall be computed from a certified financial statement provided by the Franchisee to the City, setting forth the number of residential and commercial accounts in each service category in its franchise area within the City limits and the gross receipts received there from. Payments required by this Franchise shall be made to the City on or before April 15th, July 15th, October 15th and January 15th each year for the preceding three (3)-month period. Each payment shall be estimated from information available at the time payments are due and may be adjusted following the Franchisee's receipt of an audited annual financial statement.
- B. It shall be the duty of the Franchisee to keep a proper set of books or record of accounts in accordance with sound accounting principles and practices in the industry. These books and records shall accurately reflect the amount of the Franchisee's income and expenses and financial condition, from the operation of the business within the City. Upon reasonable notice, the City shall have the right of access to the Franchisee's accounts and records relating to the collection of solid waste in the City.

Section 6: Additional Fee - Free Service to City. As further and additional compensation, the Franchisee shall remove all solid waste and recyclable material from the following administrative buildings and offices of the City: the City Hall, public works shop, and fire station complex, the City Waste Water Treatment Plant, and any other City office building that the City may acquire or establish during the life of this Franchise.

Section 7: Opportunity to Recycle Must be Provided. As a condition of the granting of this Franchise, the Franchisee shall provide all customers within the City the opportunity to recycle and shall comply with the requirements of ORS 459A.005-459A.085 and ORS 459.250, together with all applicable rules and regulations promulgated thereunder by the State of Oregon Department of Environmental Quality using at the least the following program elements:

- A. Provision of three durable recycling containers to each residential service customer.

- B. On-route collection at least every two weeks of source separated recyclable material to residential customers provided on the same day that solid waste is collected from each customer.
- C. An expanded education and promotion program conducted to inform citizens of the manner and benefits of reducing, reusing, and recycling material. The program shall include those elements provided in ORS 459A.008(2)(a).
- D. Solid waste residential collection rates that encourage waste reduction, reuse, and recycling through reduced rates for smaller containers, including at least one rate for a container that is 21 gallons or less in size. Based on the average weight of solid waste disposed per container for containers of different sizes, the rate on a per pound disposed basis shall not decrease with increasing size of containers, nor shall the rates per container service be less with additional containers serviced.
- E. Franchisee shall market the recyclable materials and shall be allowed to directly receive and retain all the proceeds from their sale. Customers shall comply with any description of and/or procedures with respect to removal of contaminants or preparation of recyclable materials as reasonably provided by Franchisee. In the event that any recyclable materials furnished to Franchisee are, due to presence of contaminants, rejected by a recycling facility or otherwise are determined by Franchisee not to be resalable or to have a reduced resale value, Franchisee may, in addition to its other remedies, require the applicable customer to pay Franchisee additional charges for hauling, processing and/or disposal of such materials; such charges will be in accordance with the approved Rate Schedule. Franchisee shall deliver properly prepared recyclable materials furnished to Franchisee under this Agreement to a recycling facility owned and/or operated by Franchisee or an affiliate of Franchisee or a third party that Franchisee understands will recycle the materials ("Third Party Facility"); provided, however, that Franchisee shall not be responsible for and has not made any representation regarding the ultimate recycling of such recyclable materials by a Third-Party Facility.

Section 8: Responsibility for Equipment. All equipment provided by Franchisee shall remain the property of Franchisee; however, while at the customer's location, such customer shall have care, custody and control of the equipment and shall be responsible for all loss or damage to the equipment (except for normal wear and tear or for loss or damage resulting from the Contractor's handling of the equipment) and for its contents. In the event a customer damage the equipment, the customer will be responsible for paying the resulting repair or replacement costs. Customers shall not overload (by weight or volume) any equipment provided by Franchisee or any container serviced by Franchisee. Franchisee reserves the right to assess the customer a reasonable replacement cost for containers that are not returned, lost or damaged beyond repair. The word "equipment" as used herein shall mean all containers used for the storage of solid waste or recyclable material.

Section 9: Accumulation and Burning of Solid Waste Prohibited. It shall be unlawful for any person to dump, collect, or in any manner accumulate or dispose of solid waste upon any street, alley, public place or private property within the City, except as provided herein. No person shall burn solid waste within the corporate limits of the City.

Section 10: Compliance with State Law. The Franchisee shall at all times comply with all applicable state laws, rules, and regulations concerning the collection and disposal solid waste and recyclable material. In the event that state law imposes stricter or different requirements than does this Franchise, the Franchisee shall comply with both sets of requirements. Where there is a conflict between state law and this Franchise, the Franchisee shall comply with state law.

Section 11: Annexed Areas. The rights and privileges of this Franchise shall extend to all land within the corporate limits of the City. Any land annexed to the City during the term of this Franchise shall automatically be subject to this Franchise, and the Franchisee shall have the exclusive right to provide solid waste and recycling collection services to property in any land so annexed. Upon annexation, the Franchisee shall contact the property owners of the newly annexed land and arrange for solid waste and recycling collection services.

Section 12: Termination by the Franchisee. The Franchisee may terminate its service obligations under this Franchise by providing the City with notice no less than two (2) years' prior to the effective date of that termination.

Section 13: Indemnification. The Franchisee shall defend, indemnify, and hold harmless the City its agents, officials, and employees from and against any and all claims, suits, causes of action, loss or liability, to the extent arising out of or related to any activity of the Franchisee in the performance of this Franchise.

Section 14: Force Majeure; Emergency Service by the City.

- A. The Franchisee shall not be in default under this Franchise in the event that the collection, processing, transportation and/or disposal services of the Franchisee are temporarily interrupted or discontinued for reasons outside the reasonable control of the Franchisee, including but not limited to: riots, wars, sabotage, civil disturbances, acts of terrorism, insurrection, explosion, natural disasters such as floods, earthquakes, landslides and fires, strikes, lockouts and other labor disturbances, excessive snow, acts of God, or other similar or dissimilar events which are beyond the reasonable control of the Franchisee (each an "Event of Force Majeure").
- B. The Franchisee agrees as a condition of holding this Franchise, that whenever the City Council reasonably determines that the failure of service or threatened failure of service, other than in connection with an Event of Force Majeure, would result in the creation of an immediate and serious health hazard, the City may, after a minimum of twenty-four (24) hours' written notice to the Franchisee, and a public hearing if requested by the Franchisee, authorize City personnel or other persons to temporarily provide the service. The Franchisee hereby expressly authorizes the City to obtain or have City employees perform, alternative collection and disposal services during any such period that the Franchisee is unable or unwilling to perform.

The Franchisee shall be liable to the City, and hereby agrees to pay, the City's reasonable costs and expenses incurred in providing alternative service pursuant to this Section. The City shall present a bill to the Franchisee itemizing all of the City's actual costs and expenses incurred in providing alternative service, including administrative and reasonable attorney

fees, transportation, labor, disposal fees and all costs incurred in providing alternative service. The Franchisee shall reimburse the City for the amount so billed within thirty (30) days after receipt of the City's bill. In the event the Franchisee fails to reimburse the City within thirty (30) days after receipt of the City's cost bill, the City may pursue all rights and remedies to which it may be entitled under law to secure payment of the cost bill.

Section 15: Annual Community Clean-up and Yard Debris Days. The Franchisee shall provide one or more roll-off containers at a predetermined location central to the community one (1) time per year on a designated day mutually agreed upon by the City and the Franchisee. The Franchisee will provide the equipment and human power to collect and dispose of solid waste and recyclable material brought to that central collection location during the event. The Franchisee will also offer all customers within the City of Mosier a Yard Debris Pick Up day one (1) time per year on a designated day mutually agreed upon by the City and the Franchisee. The Franchisee will collect bagged yard debris placed on the curb in front of each customer's residence on that day.

Section 16: Sanitary Trucks. All trucks for the collection of solid waste and recyclable material used and operated by the Franchisee shall be packer-type enclosed trucks and shall be designed to be water-tight and drip-proof, so that no garbage or waste-water can spill or drip upon the streets of the City. All equipment used by the Franchisee shall be kept and maintained in a clean and inoffensive manner and shall be thoroughly washed, at least once a week or as often as reasonably directed by the City. It is understood and agreed that the Franchisee shall add to its equipment as it may become necessary in order to properly and in a sanitary manner collect the garbage and refuse within the City limits and to transport the same as herein provided, and there shall at all times be sufficient equipment to comply with the terms of this Franchise. All storage, collection, transportation, and disposal of solid waste shall conform to the applicable requirements of ORS chapter 459 and regulations promulgated thereunder by the State Department of Environmental Quality.

Section 17: Termination for Cause.

- A. In addition to the provision for termination of this Franchise as provided in Section 12, it is also understood and a condition of this Franchise that, should the Franchisee fail, neglect or refuse to perform any of its obligations in any material respect under this Franchise then, after providing appropriate and reasonable notice to the Franchisee and reasonable time to correct the failure, the City shall have the right to cancel this Franchise if Franchisee fails to correct the failure within a reasonable time.
- B. Should the Franchisee at any time, contend that the City has breached any provision of this Franchise, in any material respect, the Franchisee shall immediately notify the City in writing of the Franchisee's contention. The City shall have a reasonable time to cure any such alleged breach, which in all events shall not be less than ninety (90) days. If the City fails to cure the breach within such time, the Franchisee may terminate this Franchise.
- C. In the case of changed circumstances that, in either party's view, warrant reopening and renegotiation of some aspect of the Franchise Agreement, the parties shall immediately meet and begin negotiation on the issue(s) involved.

Section 18: Service Options, Rates, and Rate Stability.

- A. The collection fees to be charged by the Franchisee for the services are set forth on the rate schedule attached hereto as Exhibit A entitled "Proposed City of Mosier Rates Effective January 1, 2022," and incorporated herein by this reference, as may be adjusted as set forth herein, and will be billed by Franchisee to customers. The rates shall allow the Franchisee to recover any additional costs of education, promotion and providing notice to customers of the opportunity to recycle at the levels required by state law. In no case shall the Franchisee impose a fee or charge on customers for recycling that causes the bill for those customers to be greater than the bill for similarly situated customers that do not recycle. The Franchisee may independently pursue recovery of any amounts owed by customer to Franchisee, and the City shall use good-faith efforts to cooperate in such efforts.
- B. The Franchisee is to provide each residential customer with the service once per week on a scheduled basis as provided herein. The Franchisee shall only be required to collect solid waste that is properly placed in an approved container. Notwithstanding the foregoing, the Franchisee shall have the right to refuse to pick-up any customer's solid waste which is placed outside of an approved container or is not properly bagged.
- C. The Franchisee is to make available to each residential customer at least one approved container(s). The Franchisee may charge extra for each additional approved container provided to residential customers (in excess of the first). The Franchisee will provide commercial entities with approved containers according to the rates set forth on Exhibit A. Each customer shall be responsible for keeping his/her/its approved container washed out and clean to avoid odor and potential health hazards.
- D. Disposal or service cost increases established by a unit of local government having jurisdiction may be immediately passed on to customers.
- E. In addition to the foregoing, the Franchisee's rates for services described above shall be automatically adjusted annually, effective July 1st of each year during the term of this Franchise, commencing on January 1, 2022, based on the annual average increase or decrease, if any, of the Consumer Price Index -All Items -for Portland-Salem, OR-WA, as published by the United States Bureau of Labor Statistics (<http://data.bls.gov>) (the "CPI") during the most recent twelve (12) month period ending no later than December 31st of the calendar year preceding the upcoming year. Thus, if the CPI increased three percent (3%) from the annual average of 2020 to the annual average of 2021 then the Franchisee's rates would automatically be subject to a three percent (3%) increase effective as of January 1, 2022. In the event the CPI index is no longer published, the parties shall confer in good faith to select an alternative index and shall confirm their agreement on a substitute index in writing. If the parties are unable to agree on a substitute index, either party may submit the selection of the substitute index to binding arbitration before a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. All percentages shall be computed to the third decimal place and the change in the Franchisee's rates shall be calculated to the nearest cent (\$.01).
- F. In addition to the adjustment mechanisms set forth in Sections 18.B and C above, the Franchisee may request an adjustment to the Franchisee's rates for services, under the following circumstances: (i) any changes in existing, or adoption of new, federal, state, local

or administrative laws, rules, or regulations that result in an increase in the Franchisee's costs, including but not limited to the imposition of new or the increase to existing governmental, regulatory or administrative taxes or fees; and (ii) in the event that unforeseen circumstances arise which materially affect the Franchisee's costs or revenues under this Franchise, including but not limited to increases in the cost of fuel. The Franchisee's application for a rate adjustment shall include a statement of the amount of the requested rate adjustment, the basis there for, and all financial and other records on which the Franchisee relies for its claim that the Franchisee's costs have increased. City staff shall promptly review the Franchisee's rate application and notify the Franchisee if its application is complete or whether City staff wishes to review and/or audit any additional documents or information reasonably related to the requested increase before submitting the matter to the City Council for its consideration. Rate adjustments made under this Section 18.E may be requested by the Franchisee at any time during the course of an operating year. The City Council shall review and consider approval of adjustment requests under this Section 18.E in its discretion; provided, however, that such approval shall not be unreasonably withheld, conditioned, or delayed. The City Council shall review and consider such requests within a reasonable period of time after the complete submittal by the Franchisee of its application for a rate adjustment and after the City has had a reasonable period of time to request, review, and audit any applicable financial records of the Franchisee. The City Council may grant the Franchisee's requested rate adjustment or, based on the information presented, increase the Franchisee's rates in amounts differing from the Franchisee's request. The adjusted rates, if approved by the City Council, shall go into effect thirty (30) days after such approval or at such other time as established by the City Council.

- G. As further compensation to the Franchisee for its services under this Franchise, the Franchisee shall be entitled to receive and retain all revenues, if any, from the sale of recyclable material received by the Franchisee from its customers.

Section 19: Service and Billing.

- A. When the services are provided to premises that are not occupied by the owner, it shall be the owner's election whether or not the bill shall be mailed to the owner or the occupant; provided, however, owner and occupant shall be jointly and severally liable for the bills. The Franchisee shall bill all customers for all services, whether regular or special.
- B. The Franchisee may discontinue service as set forth in this Section. Customers who have not remitted required payments within sixty (60) days after the date of billing shall be notified of such failure. Said notice shall contain a statement that services may be discontinued fifteen (15) days from the date of notice of payment if payment is not made before that time. Upon payment of the delinquent fees, the Franchisee shall resume collection on the next regularly scheduled collection day. Customers whose service is being withheld shall nevertheless continue to be responsible for rates charged during the period in which service is withheld. The Franchisee shall be entitled to a reinstatement fee of \$25 for reinstating service after such customers bills are brought current.
- C. The fees levied for service by the Franchisee for solid waste collection shall constitute a civil debt and liability owing to the Franchisee from the person using or chargeable for such

services and shall be collectible in any manner provided by law, including, without limitation, the reporting of delinquent payers to collection agencies or bureaus.

- D. The Franchisee may collect a late payment penalty fee which shall not exceed the maximum interest rate permitted under Oregon law on all payments not received by the twenty-fifth (25th) day of the following month. In addition, the Franchisee may include in such late payment penalty fee (i) all costs, fees and expenses incurred by the Franchisee in connection with the collection of any such late payment (including any fees and expenses charged to the Franchisee by any attorneys, collection agencies or bureaus retained by the Franchisee), and (ii) the reinstatement fee provided for above.

Section 20: Location of Collection. Approved containers shall be placed in a location that is readily accessible to the Franchisee and its collection equipment, not to exceed three (3) feet from the curb or edge of the traveled portion of the street or road and not to be located in a manner that will inhibit proper servicing. In rural areas, if applicable, collection will be limited to mailbox locations, and private roads will not be traveled. If access to an approved container is inhibited, the Franchisee shall notify the customer. The Franchisee shall have no obligation to collect approved containers that have not been placed in the proper location by 5:30 a.m. on the scheduled Collection Day.

Section 21: Hours and Days of Operation. Except as otherwise provided in this Section, the Franchisee shall provide the service on the designated collection day. The Franchisee shall not commence service before 5:30 a.m. The Franchisee shall be excused from providing service when accessibility to the Landfill is denied due to a holiday or other closure which would render pickup service impractical and shall further be excused from providing service on the following holidays: New Year's Day; Memorial Day, Independence Day; Labor Day; Thanksgiving Day; and Christmas Day. The Franchisee may decide to observe any or all of the above mentioned holidays by suspension of the services on the holiday. Any collections missed as a result of the foregoing shall be rescheduled for another day during the same week. The Franchisee shall be responsible for publicizing (and the expense of publishing) any changes in collection schedules due to the observance of the above holidays.

Section 22: City Representative. The City Council authorizes the City Manager (or the City Manager's designee), to act on the City's behalf in all matters relating to this Franchise.

Section 23: Roadways. The Franchisee will not be responsible for damage to the City roads caused by the weight of Franchisee's trucks or equipment reasonably necessary for Franchisee to provide the services described herein, provided that such damage was caused by ordinary wear and tear in the normal course of the performance of Franchisee's services and not due to the negligent acts or omissions of Franchisee.

Section 24: Transfer. The Franchisee shall not transfer any of the rights, responsibilities, benefits, or burdens of this Franchise to any other entity (except for a wholly-owned subsidiary or affiliate of the Franchisee) without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. In the event of notice from the Franchisee seeking to transfer this Franchise to another solid waste collector, the City reserves the right to renegotiate the terms of this Franchise at that time with the new franchisee. In the event that Franchisee transfers any aspect of this Franchise to another entity or party, Franchisee shall within thirty (30) days of such transfer, provide the City with any new contact information.

Section 25: Insurance. The Franchisee shall obtain and maintain comprehensive general liability and automobile liability insurance for the duration of this Franchise, with a combined single limit of \$2,000,000 bodily injury and property damage, and with the City as a named additional insured. The Franchisee shall provide the City with a certificate demonstrating this insurance coverage.

Section 26: Law to Govern; Venue. The law of the State of Oregon shall govern this Franchise. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Wasco. In the event of litigation in a U. S. District Court, exclusive venue shall lie in the District of Oregon. The prevailing party in any litigation arising out of this Franchise shall be entitled to recover reasonable attorney’s fees and costs.

Section 27: Effective Date and Term. The Term of this Franchise shall be July 18, 2022 through July 17, 2029. The Rate Schedule under Section 18(A) shall be effective as of the date identified in the Rate Schedule in Exhibit A.

Section 28: Effect on Previously Adopted Agreements. The Parties acknowledge and agree that this Franchise contains the whole and complete agreement for the subject matter addressed herein. This Ordinance shall supersede and replace all previously adopted amendments, ordinances, and agreements on the same matter.

Read for the First Time this __ day of January 2023.

Read for the Second Time and approved this __ day of February 2023. This Ordinance shall take effect on the 31st day following the second reading.

AYES: _____ NAYS: _____ ABSTAIN: _____ ABSENT: _____

Witt Anderson, Mayor

Attest:

Approved as to form:

Jayme Bennett, Interim City Manager

Laura Westmeyer, City Attorney

ACKNOWLEDGED AND AGREED:

THE FRANCHISEE:

By: _____

Title: _____

Date: _____