ORDINANCE NO. 2332

AN ORDINANCE AMENDING CHAPTER 50 OF THE HERMISTON MUNICIPAL CODE, ENTITLED "SOLID WASTE MANAGEMENT ORDINANCE," TRANSFERRING THE SOLID WASTE FRANCHISE FROM SANITARY DISPOSAL, INC. TO WASTE CONNECTIONS OF OREGON, INC.

WHEREAS, the City recognizes that Sanitary Disposal, Inc., is in good standing and has provided service to the city of Hermiston on satisfactory terms; and

WHEREAS, Sanitary Disposal, Inc. and Waste Connections of Oregon, Inc. have requested the transfer of the existing collection franchise; and

WHEREAS, the City's review of documents and information provided by Waste Connections of Oregon, Inc. indicates that Waste Connections of Oregon, Inc. has the knowledge, experience, and financial resources to meet the obligations of a solid waste franchise; now therefore,

THE CITY OF HERMISTON ORDAINS AS FOLLOWS:

(New language is in red and underlined and repealed language has ~~a line through it~~.)

Section 1. Section 50.03 of the Hermiston Municipal Code is amended to read:

50.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

CITY. The City of Hermiston. Where the city limits are extended, the "city" shall include extended geographic boundaries.

COMPENSATION. Includes:

(1) Any type of consideration paid for service including, but not limited to, rent, the proceeds from resource recovery, any direct or indirect provision for the payment of money, goods, services or benefits by tenants, lessees, occupants or similarly situated persons;

(2) The exchange of service between persons; and

(3) The flow of consideration from a person owning, possessing or generating solid waste to another person who provides services or from a person providing services to another person owning, possessing or generating solid waste.

FRANCHISEE. ~~Sanitary Disposal, Inc.~~ Waste Connections of Oregon, Inc. doing business as Sanitary Disposal to whom a franchise is granted by the city pursuant to this ordinance. The franchise shall grant exclusive rights to provide service and solid waste management service for

compensation.

GROSS RECEIPTS. All revenue received from providing solid waste management service under this chapter.

INFECTIOUS WASTE. Includes biological waste, cultures and stocks, pathological waste and sharps, each as defined in ORS Chapter 459.

RECYCLABLE MATERIALS. Any material or group 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 same material.

RESOURCE RECOVERY. The process of obtaining useful material or energy resources from solid waste, including energy recovery, material recovery, recycling and reuse of solid waste.

SERVICE. The collection, transportation, storage, transfer, disposal of or the resource recovery from solid waste.

SOLID WASTE. All useless or discarded putrescible and non-putrescible materials, including but not limited to: garbage, rubbish, refuse, ashes, paper, cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined in ORS 459.386, but the term does not include:

(1) Hazardous waste as defined in ORS 466.005.

(2) Materials used for fertilizer or for other productive purposes or which are salvageable as the materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

(3) Woody biomass that is combusted as a fuel by a facility that has obtained a permit under state law.

(4) Beverage containers, subject to reuse or refund provisions, contained in ORS 459A.700 through 459A.740.

SOLID WASTE MANAGEMENT. The prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to the activities.

WASTE. Material that is no longer usable or wanted by the source of the material, which material is to be utilized or disposed of by another person. For the purpose of this paragraph, "utilized" means the productive use of wastes through recycling, reuse, salvage, resource recovery, energy recovery or landfilling for reclamation, habilitation or rehabilitation of land.

Section 2. Section 50.30 of the Hermiston Municipal Code is amended to read:

FRANCHISE PROVISIONS

50.30 GRANT OF FRANCHISE AND TERM OF FRANCHISE.

There is hereby granted to ~~Sanitary Disposal, Inc.~~ Waste Connections of Oregon, Inc, an Oregon corporation, doing business as Sanitary Disposal, the exclusive right, franchise and privilege of using the streets of the city to provide solid waste management service for commercial, industrial and residential establishments within the city. The rights, privileges and franchise herein granted to begin ~~began on August 9, 1994~~ December 1, 2021, and shall be considered as a continuing five-year franchise. That is, beginning January 1 of each year, the franchise will be considered renewed for an additional five-year term, unless at least 30 days prior to January 1 of any year either party shall notify the other party in writing of intent to terminate further renewals of the franchise. Upon the giving of notice of termination, the franchisee shall have a franchise which will terminate five years from the date of the notice of termination of renewals. The Council may later extend the term or reinstate continuing renewals upon mutual agreement with the franchisee. Nothing in this section restricts the Council from suspending, modifying or revoking the franchise for cause pursuant to § 50.32. The franchise may be transferred only upon approval of the City Council. The sale of shares, merger, consolidation, reorganization or restructuring in which the current shareholders are no longer the principal owners and managers shall be treated as a transfer of interest requiring approval.

Section 3. Section 50.51 of the Hermiston Municipal Code is amended to read:

50.51 BILLING, COLLECTION AND FRANCHISE FEE.

The city shall do the billing and collecting of solid waste service fees and shall retain a percentage of the gross collections in payment of a franchise fee, and a percentage for billing and collection service, as established by City Council resolution; the balance shall be paid to ~~Sanitary Disposal, Inc.~~ Waste Connections of Oregon, Inc. doing business as Sanitary Disposal The percentage shall be reviewed and may be changed at any time when the franchisee submits a request for rate review.

Section 4. Acceptance. This ordinance shall become and be a valid and binding contract between the City and franchisee; provided, however, that this ordinance shall be void unless franchisee shall, within 90 days after final passage of this ordinance, file with the city recorder of the City a written acceptance of this ordinance and the franchise herein granted.

Section 5. Effective date. Inasmuch as it is necessary for the immediate health, peace, or safety of the people of the City of Hermiston that this ordinance have immediate effect, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect from and after its passage by the council and approval of the mayor.

ADOPTED by the Common Council this 8th day of November 2021.

SIGNED by the Mayor this 8th day of November 2021.

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Dr. David Drotzmann, Mayor

ATTEST:

_____
Lilly Alarcon-Strong, CMC, City Recorder

ACCEPTED BY FRANCHISEE:

WASTE CONNECTIONS OF OREGON, INC.
dba SANITARY DISPOSAL

_____ _____ Date: _____
NAME TITLE