

**WASTE MANAGEMENT FRANCHISE
ORDINANCE NO. 297**

AN ORDINANCE OF THE CITY OF CLARK FORK, BONNER COUNTY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, GRANTING WASTE MANAGEMENT, INC., A TEXAS CORPORATION, WITH THE RIGHT, PRIVILEGE, AND FRANCHISE TO OPERATE SOLID WASTE COLLECTION AND DISPOSAL SERVICES WITHIN THE CITY, SUBJECT TO THE TERMS, PROVISIONS AND LIMITATIONS CONTAINED WITHIN THE AGREEMENT; CHARGING FEES IN SUCH AMOUNTS AND IN SUCH MANNER AS SET FORTH WITHIN THE AGREEMENT; TO PROVIDE THAT SAID FRANCHISE WILL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS; PROVIDING FOR APPROVAL AND RATIFICATION OF THE WRITTEN FRANCHISE AGREEMENT BETWEEN THE FRANCHISE HOLDER AND THE CITY; REPEALING ANY ORDINANCES OR SECTIONS THEREIN THAT ARE IN CONFLICT; DECLARING THE ORDINANCE SEVERABLE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Waste Management, Inc., a Texas Corporation authorized to do business within the state of Idaho, has operated and provided solid waste collection and disposal services within the City of Clark Fork, State of Idaho (the "City"), pursuant to Ordinance 238 and Ordinance 263 since 2004;

WHEREAS, Waste Management, Inc. has filed a written application for a renewal and replacement of its franchise agreement to operate solid waste collection and disposal services within the city limits, and the City has determined it is in the interest of persons and businesses in this jurisdiction to have access to Waste Management, Inc.'s services;

WHEREAS, the City, pursuant to its authority outlined in Idaho Code, and more specifically with respect to franchise authority outlined in Idaho Code § 50-329 et.al., has determined that Waste Management, Inc. is able to provide its services within the city limits, and those services are necessary for the public health and welfare, as well as public safety of the City and its citizens;

BE IT HEREBY ORDAINED by the Mayor and City Council of the City of Clark Fork, Bonner County, Idaho, that Waste Management, Inc., is hereby GRANTED a franchise agreement as identified below:

Section 1: CREATION - Pursuant to the authority vested by Idaho Code and Article XII, Section 1 of the Idaho Constitution, the City does hereby take action to adopt Ordinance Number 297.

Section 2: DEFINITIONS - All terms associated with this Ordinance shall be defined in the accompanying agreement.

Section 3: GRANT AND TERM OF FRANCHISE - The City of Clark Fork does hereby grant to Waste Management, Inc. a franchise of scope and description as set forth under the "First

Amended and Restated Franchise Agreement” (“Agreement”) for a period of five (5) years, attached as Exhibit A and hereby incorporated.


Section 4: RATES - The fee rates for Waste Management, Inc.’s services and any subsequent increase(s) shall be designated by those in Section 31 and Exhibit B of the Agreement.

Section 5: SEVERABILITY - The franchise is granted pursuant to the law of the State of Idaho relating to the granting of such rights and privileges of the City of Clark Fork. If any section, sentence, clause or phrase of the ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses and/or phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this ordinance shall remain in effect notwithstanding the invalidity of any part. The invalidity of any portion of this ordinance shall not abate, reduce, or otherwise affect any consideration or other obligation required of the City.

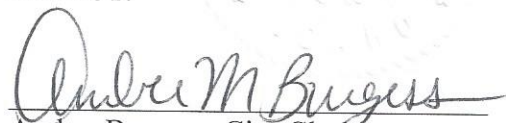
Section 6: REPEALING OF CONFLICTING PROVISIONS – All prior ordinances or sections in conflict with this ordinance, including but not limited to City of Clark Fork Ordinances 238 and 263 are hereby repealed to the extent of such conflict.

Section 7: EFFECTIVE DATE - This ordinance shall be effective upon its passage, affirmative vote during the regularly scheduled city council public meeting, and a summary publication in the official newspaper of the City of Clark Fork.

PASSED under suspension of the rules upon which a roll call vote was duly taken and enacted as an ordinance of the City of Clark Fork at the regular meeting of the City Council held on the 11th day of December, 2023.


Russell Schenck, Mayor
City of Clark Fork

ATTEST:

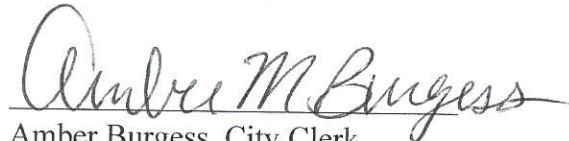

Amber Burgess, City Clerk

CITY COUNCIL MEMBERS	YES	NO	ABSENT
Shari Jones	<u> √ </u>	—	—
Jay White	<u> √ </u>	—	—
Sharon Banning	<u> √ </u>	—	—
Tanya Becker	<u> √ </u>	—	—

SUMMARY OF ORDINANCE NO. 297
WASTE MANAGEMENT FRANCHISE ORDINANCE

SUMMARY: The City of Clark Fork adopted Ordinance Number 297 on December 11, 2023, which establishes an ordinance of the City of Clark Fork, Bonner County, a municipal corporation of the State of Idaho, granting Waste Management, Inc., a Texas corporation, with the right, privilege, and franchise to operate solid waste collection and disposal services within the City, subject to the terms, provisions and limitations contained within the agreement; charging fees in such amounts and in such manner as set forth within the agreement attached and incorporated within the ordinance; declaring that said franchise will remain in full force and effect for a period of five years; providing for approval and ratification of the written franchise agreement between the franchise holder and the City; repealing any ordinances or sections therein that are in conflict; declaring the ordinance severable; and sets an effective date upon publication of this summary.

The full text of Ordinance No. 297 is available for review at Clark Fork City Hall, 110 3rd Ave., Clark Fork, Idaho, during regular business hours and on the City of Clark Fork website. This summary shall be filed with the adopted Ordinance.


Amber Burgess, City Clerk

Publish once in the Bonner County Daily Bee or other newspaper of general circulation for which notice requirements may be satisfied.

City of Clark Fork

SUMMARY OF ORDINANCE NO. 297

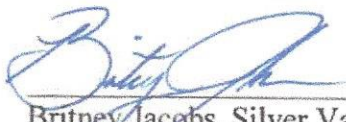
An ordinance of the City of Clark Fork, Bonner County, a municipal corporation of the state of Idaho, granting Waste Management, Inc., a Texas corporation, with the right, privilege, and franchise to operate solid waste collection and disposal services within the City, subject to the terms, provisions and limitations contained within the agreement; charging fees in such amounts and in such manner as set forth within the agreement attached and incorporated within the ordinance; declaring that said franchise will remain in full force and effect for a period of five years; providing for approval and ratification of the written franchise agreement between the franchise holder and the city; repealing any ordinances or sections therein that are in conflict; declaring the ordinance severable; and providing for an effective date.

Ordinance 297 was passed by the City Council of the City of Clark Fork on December 11th, 2023, and becomes effective as of the date of publication. The full text of Ordinance 297 is available for review on the City of Clark Fork's Website or during the City's regular business hours at Clark Fork City Hall, 110 3rd Ave., Clark Fork, Idaho.

This summary shall be filed with the adopted ordinance.

CITY ATTORNEY REVIEW:

The undersigned, City of Clark Fork legal counsel, having reviewed Ordinance 297 and the summary for the same, believes the summary is true and complete and that it provides adequate notice to the public of the identity, principal provisions, and effective date of the ordinance.



Britney Jacobs, Silver Valley Law
Attorney for the City of Clark Fork

12/12/23
Date

**FIRST AMENDED AND RESTATED FRANCHISE AGREEMENT
FOR GARBAGE COLLECTION AND DISPOSAL
BETWEEN THE CITY OF CLARK FORK AND
WASTE MANAGEMENT OF IDAHO, INC.**

This FIRST AMENDED AND RESTATED FRANCHISE AGREEMENT FOR GARBAGE COLLECTION AND DISPOSAL BETWEEN THE CITY OF CLARK FORK AND WASTE MANAGEMENT OF IDAHO, INC. (this "Agreement") is made and entered into between WASTE MANAGEMENT OF IDAHO, INC., an Idaho corporation (the "Contractor") and THE CITY OF CLARK FORK, a municipal corporation of the State of Idaho (the "City") as of December 11, 2023. The parties shall be collectively referred to herein as the "Parties" and individually as a "Party", unless specifically identified otherwise.

RECITALS

WHEREAS, pursuant to Idaho State Constitution Article 12, Section 2, granting municipalities police and sanitation regulatory powers, the Clark Fork City Council hereby exercises those powers; and

WHEREAS, the City Council finds that by entering into a franchise for Garbage Collection and Disposal, the citizens of the City will be insured Garbage collection services at more stable rates; and

WHEREAS, the City Council has determined that the City should enter into a franchise with Waste Management of Idaho, Inc. for the use of the public rights of way for the collection and disposal of Garbage with the City;

WHEREAS, on or about October 11, 2004, the Parties executed the Franchise for Garbage Collection and Disposal Between the City of Clark Fork and Waste Management of Idaho, Inc. 2004-2009; and

WHEREAS, the Parties signed the First Amendment to the Franchise extending the expiration date to April 30, 2019; the Parties in January of 2019 effectuated a second extension of the expiration date to April 30, 2024;

WHEREAS, the Parties wish to extend the expiration date for a five (5)-year term beyond April 30, 2024 on the terms and conditions as set forth herein.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL BENEFITS AND COVENANTS STATED HEREIN THE PARTIES AGREE AS FOLLOWS:

1. **Grant of Franchise.** The City hereby grants Contractor an exclusive franchise to use the public rights of way within the jurisdiction of the City to collect Garbage within the City limits from all residential, commercial, and industrial sources, including all work incidental thereto, upon the terms and conditions set forth below.
2. **Term.** This Agreement shall commence on May 1, 2024 and shall expire on April 30, 2029, (the "Term"). The Parties may extend the Term for a period of time agreeable to both Parties upon mutual consent in writing no later than one hundred and twenty (120) days prior to the expiration of the Term.
3. **Rates and Charges.** Contractor shall charge Contractor's customers within the city limits of Clark Fork the Rates set forth in the Service Rate Schedule attached as Exhibit B and incorporated herein by this reference as if set forth in full. If a customer requests a service level and rate that is not set forth in Exhibit B, customer and Contractor will negotiate a service level and rate to be approved by the City. The City will not unreasonably withhold, condition or delay such approval. Contractor may pass on to the customer any Franchise Fee that is required to be paid pursuant to this Agreement.

- 3.1 Contractor shall bill monthly each commercial establishment subscribing to Garbage Collection Service, Container rental (where applicable).
- 3.2 The Contractor shall bill quarterly each residential unit subscribing to Garbage Collection Service.
- 3.3 All commercial and Residential accounts shall be billed at the Rates listed in Exhibit B.

4. **Definitions.** For the purposes of this Agreement the terms shall have the meanings as set forth in Exhibit A.

5. **General Description.** Contractor shall furnish, during the Term of this Agreement all personnel, labor, equipment, trucks, and all other items necessary to provide Garbage collection as specified in this Agreement and to perform all of the work called for and described herein. Contractor shall have the ability to furnish reserve vehicles and personnel in order to maintain service levels as defined under the terms of this contract at all times and shall demonstrate the ability to perform required service with such reserve equipment and personnel upon City's request.

- 5.1 The services that the Contractor shall provide to the citizens of Clark Fork consist of the collection of all Garbage herein referred to which occurs within the City of Clark Fork and disposal thereof. However, this does not include collection and/or disposal of Unacceptable Waste.
- 5.2 Containers shall be placed for collection at the Curbside. This Agreement does not require alleyway collection. The collection of Garbage within the City shall be at the time and intervals set forth in Section 5.7.
- 5.3 [Intentionally Omitted.]
- 5.4 Contractor may refuse to pick up Garbage from locations identified by Contractor, where, because of the conditions of the streets or roads, it is impractical to operate vehicles. Contractor may refuse to drive into private property where driveways or roads are without adequate turn-around or have other unsafe conditions. Contractor shall provide written notice to both the customer and the City of any inadequate road or driveway conditions.
- 5.5 Contractor will not be required to enter into private property to pick up Garbage while an animal considered or feared to be vicious is loose. If Contractor cannot provide Collection Service due to a loose animal considered or feared to be vicious, Contractor will notify City within the same working day. Contractor will provide City with service address and description of incident.
- 5.6 Contractor shall not be required to guarantee Garbage pickup at any particular hour but shall not commence Garbage collection before 6:00 am Monday through Friday inclusive for Residential collection. Commercial collection from non-residential areas may commence at 4:00 am Monday through Friday inclusive. Commercial collection in residential areas will not take place earlier than 6:00 am Monday through Friday. Contractor agrees to work with customers in noise-sensitive areas to reach mutually agreed upon collection times. No credit will be given for a skip in scheduled service due to weather or road conditions if Garbage missed is picked up by Contractor on the next available service date.
- 5.7 Missed Pick-Ups and Complaints. All Residential Garbage must be placed at the Curb or other designated location and ready for pick-up before 6:00 a.m. on the collection day; any Containers not collected because they are not at the Curb or other designated location on time shall not be considered a missed pick-up. All complaints as to Contractor's provision of the Collection Services,

including alleged missed pick-ups, shall be given prompt and courteous attention. Contractor shall attempt to resolve all complaints promptly, and shall cure all missed pick-ups that are not the result of Uncontrollable Circumstances within one (1) week, conditions permitting.

- 5.8 Contractor shall comply with all applicable local, state and federal regulations and laws regarding the collection, transfer and disposal of Garbage pursuant to this Agreement. This section is subject to the provisions of Section 14 of this Agreement.
- 5.9 Service to the City: As partial consideration for this Agreement, Contractor shall provide Collection Service of a 2-yard Garbage Bin once per month from City Hall and waive the service and rental charge. The Contractor will also provide Garbage Collection Service and waive the service and rental charges for a 4-yard Garbage Bin for the 4th of July parade. The City will remain responsible for payment of the Bonner County Disposal Fees.

6. Franchise Fee.

- 6.1 For the reason that the Rights-of-Way to be used by the Contractor in the operation of its Garbage collection service within the boundaries of the City are valuable public properties acquired and maintained by the City at great expense to its taxpayers, and because the City will incur costs in the administration of the Agreement, the Contractor shall pay to the City a Franchise Fee in an amount equal to five percent (5%) of Contractor's Adjusted Gross Revenues collected from Customers during the preceding month. The term, "**Adjusted Gross Revenues**" means any and all revenue or compensation collected by Contractor from customers pursuant to this Agreement, and does not include a) revenues generated from non-exclusive services performed by Contractor, b) City or other state, federal, or local taxes or surcharges; c) customer late fees, returned check charges, interest, reactivation charges, or similar charges related to Customer delinquencies; d) revenues generated from the sale of any recyclables or salvageable materials collected during Garbage collection service, or the Bonner County Solid Waste Disposal Fee that is collected from commercial customers for Bonner County under a separate agreement. Company shall remit to the City said monthly Franchise Fee reduced by the accounts written off for non-payment and increased by any recoveries of such accounts previously written off. This solid waste fee is due and payable thirty (30) days after month end (example: June 2024 fee shall be due July 30, 2024).
- 6.2 Acceptance of money under this Section shall not in any way limit or impair any of the privileges or regulatory, condemnation, police powers or taxing rights of the City, whether under this Agreement or otherwise. No acceptance of any payment shall be construed as an accord that the amount paid is the correct amount, nor shall such acceptance be construed as a release of any claim which the City may have for additional sums payable under the provisions of this Agreement.
- 6.3 The Franchise Fees shall be in addition to any and all special assessments and taxes that are now or hereafter required to be paid by any general law of the City, the State of Idaho, or the United States.

7. Notices.

- 7.1 All written notifications required by this Contract shall be effective upon receipt and delivered by Certified Mail, Return Receipt Requested or via overnight delivery by a nationally-recognized overnight delivery service.

Any notices to be sent to the City shall be sent to the Mayor at the following address:

Mayor
City of Clark Fork

P.O. Box 10, Clark Fork, ID 83852

Any notices to be sent to Contractor shall be sent to:

Waste Management of Idaho, Inc.
Attn: Area Director – Public Sector Solutions
720 – 4th Avenue, Suite 400, Kirkland, WA 98033

Copy to:

Waste Management of Idaho, Inc.
Attn: Senior Legal Counsel
7227 NE 55th Ave.,
Portland, Oregon 97218

7.2 The Parties have agreed to allow for courtesy notices to be sent to the City Clerk at city@clarkforkidaho.org and Contractor's Public Sector Manager at tyager@wm.com. Emailed courtesy notices do not replace the requirement for written notifications pursuant to 7(a).

8. Contractor's Employees. Contractor shall be responsible for the acts of the Contractor's Employees.

- 8.1 Contractor's employees shall be courteous at all times and not use loud or profane language and do their work as quietly as possible.
- 8.2 Contractor's employees, in collecting Garbage, shall use the regular walks for pedestrians while on private property.
- 8.3 Contractor's employees shall replace all Garbage cans and covers, and close all gates opened by them.
- 8.4 Contractor's employees shall wear clean clothing or uniforms.
- 8.5 Contractor's employees shall not trespass or loiter or cross private property at any place other than a designated walkway to an adjoining premise.
- 8.6 Contractor's employees, while performing the services of Garbage collections, shall limit their activities to those that are necessary to comply with the terms of this Agreement.

9. Loading. Extra care shall be taken by employees or agents of the Contractor in the loading and transportation of Garbage so that none of the material to be collected is left either on private property or on the streets or alleys. Contractor shall be responsible for the cleaning up of all debris spilled or tracked on any street, alley or public place by any of its employees or equipment, and if Contractor fails to clean the same within 12 hours after written notice by the City Mayor, the City Mayor may cause such street to be cleaned and charge all costs to Contractor, including a penalty equivalent to fifty percent (50%) of said costs.

10. Special Collections. Adequate provisions shall be made by Contractor to provide special collections when Garbage has not been collected during the regularly scheduled trip. Special pickups for missed collection through no fault of Customer shall be made by Contractor when ordered by the City Mayor or his or her designee. If Contractor fails to provide a special pickup for missed collection within twenty-four (24) hours after notification by the City Mayor, the City Mayor may cause the work to be done. Contractor shall pay all City costs incurred in collecting and disposing of Garbage for missed pickup, including a penalty equivalent to fifty percent (50%) of said costs.

11. Collection Equipment.

- 11.1 In collecting Garbage under this Agreement, Contractor shall use truck bodies that are designed and manufactured for the collection of Garbage and are capable of servicing detachable containers. No leakage from either truck bodies or detachable containers shall be allowed. Contractor shall make available for rental detachable containers, which meet all applicable safety requirements. The detachable containers must be watertight. Contractor's equipment may be inspected and approved by the City according to standards of Idaho Department of Transportation and this Agreement at any time during the performance of this Agreement.
- 11.2 The number and type of collection vehicles, including back-up or reserve equipment in event of equipment failure, furnished by Contractor, shall be sufficient for the collection of all Garbage. If there is any doubt by Contractor whether his proposed equipment is satisfactory or not, Contractor should secure prior written approval from the City.
- 11.3 Contractor shall provide Carts and Containers on a subscription, rental, and/or will-call basis per the Exhibit B, Service Rate Schedule. Carts and Containers shall remain the property of Contractor. Unless noted on Exhibit B as "will call" or "container rent", the cost of Carts and Containers is included in the weekly or monthly subscription Rates.

12. Overages and Overweight Containers.

- 12.1 Container Overages. Contractor requires compensation to collect and dispose of Overages (as defined in Exhibit A).

During the period beginning on the Collection Services commencement date, May 1, 2024 and ending sixty (60) days later on June 30, 2024 (the "Roll-Out Period"), Contractor shall provide a Customer education program designed to minimize instances of Overage. During the Roll-Out Period, where Contractor documents that a particular Customer has an Overage, Contractor shall collect the Overage (where it can be done safely and excluding material laying on ground) and provide a notice to the Customer electronically (if such contact information is provided by Customer) or in the form of a Container tag.

Following the Roll-Out period, Contractor may elect to not collect Overages; in such event, the Customer may correct the Overage and request that Contractor return to service the Container for an additional fee. If Contractor elects to collect the Container with Overage, Contractor shall invoice the Customer an Overage Charge. In either case, the Contractor shall provide Notice regarding the Overage Violation. If there have been more than three (3) Overage events in any twelve (12)-month period, Contractor may increase the Customer's service level to a larger Container or more frequent service at the applicable rates.

- 12.2 Overweight Containers. The Company may elect to not collect any Garbage Container which the Company reasonably believes to be overweight. A Container shall be considered "overweight" when the total weight of the Container and contents exceeds two times the volume capacity of said Container (e.g., 192 pounds for a 96-gallon Cart). The Company shall provide notification to the Service Recipient regarding each instance of non-collection.

- 13. **Other Contractor.** Contractor may not subcontract to another Contractor specific service areas without formal written consent of the Mayor. Such consent shall not relieve Contractor from its responsibilities under this Agreement for the area served by a sub-Contractor.

14. **Method of Disposal.** Contractor shall deliver all Garbage within the city limits of Clark Fork, except as provided in Paragraph 5.3, to the Bonner County Transfer Station, or, in the event the Bonner County Transfer Station ceases to operate, to a disposal site approved and accepted by the regulatory agencies having jurisdiction under this Agreement.
15. **Ownership of Equipment.** All vehicles, facilities, equipment and property used in the performance of this Agreement shall be wholly-owned, leased or rented by Contractor with exception to the Customer-owned compactors as shown on Exhibit B.
16. **Painting and Cleaning of Vehicles.** Collection vehicles shall be painted and numbered and shall have the Contractor's name and vehicle numbers affixed in letters of a contrasting color, at least four (4) inches high on each vehicle. No advertising shall be permitted other than the name of the Contractor without the prior consent of the City. All vehicles shall be kept in a clean and sanitary condition.
- All containers furnished under the Agreement shall display Contractor's name.
17. **Reporting Requirements.** Contractor agrees and covenants to keep accurate and complete records and accounts related to this contract, digitally or in writing, including routes indicating the collection from residential, commercial and industrial customers, as dictated by good accounting practices, and to allow the City, or its duly authorized representative or agent, reasonable and adequate access to any and all of said records, data, and accounts related to this contract and Contractor shall furnish the City, upon its request, accurate copies or duplicates thereof, without charge. The aforementioned notwithstanding, any records that include the Confidential Information of Contractor and/or customers shall be appropriately redacted to protect Contractor's proprietary, competitive information, and customers' private information.
18. **Change in Date of Service.** Contractor shall give seven (7) days written notice to the City Clerk or designee of any change, which affects the date of collection.
19. **Customer Service.** Contractor shall maintain a local access telephone number available for residents and businesses Monday through Friday from 8:00 a.m. to 5:00 p.m. to take care of complaints, request services, manage accounts, and receive instruction. Customer service will observe the following holidays: New Year's Day, MLK Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas, and nationally observed holidays stated for the year. Additional on-line customer service options are available 24/7.
20. **Permits.** Contractor shall take out and pay for any business license or other fee required by the City or any other governmental authority, which may be required to provide the services under this Agreement.
21. **Liability/Insurance.**
- 21.1 Contractor will be held responsible for any damage to publicly or privately owned facilities to the extent caused by its operations including, but not limited to, equipment used in the collection and storage of municipal solid waste. The Contractor shall be responsible for the cost of repair or replacement due to any such damage. Notwithstanding any provision in this Contract to the contrary, Contractor shall not be responsible for any damage to driving surfaces that is the result of ordinary wear and tear during the performance of the Collection Services.
- 21.2 Contractor shall provide and maintain in full force and effect during the entire term of this Agreement or renewal thereof, a policy of Contractor's public liability insurance, naming the City as an additional insured, providing for limits of not less than Five Million (\$5,000,000.00) Dollars for all damages arising out of bodily injuries, death, and property damage. All the foregoing insurance

policies shall provide for thirty (30) days' written notice to the City of any change or cancellation, and the City shall be named as an additional insured thereon. A Cancellation of insurance as required by this section shall be a basis for the immediate cancellation of this Agreement.

21.3 Contractor shall provide Certificate of Insurance to the City Clerk.

22. Indemnification and Hold Harmless Agreement.

22.1 Contractor hereby agrees to indemnify, defend and hold harmless the City, its officers, employees, agents and representatives from any and all claims, costs, judgment, or awards (collectively "Claims"), to, by or on behalf of any person or entity, including employees of the Contractor or its sub-Companies, to the extent such Claims result from negligent actions or omissions of Contractor and arise from or out of Contractor's negligent performance of the terms of this Agreement. Company's indemnification of City shall not include Claims based upon or arising out of Unacceptable Waste.

22.2 The City agrees to indemnify, defend and hold harmless the Contractor from and against all Claims to the extent such Claims are based upon or arising out of City's breach of this Agreement or its negligent actions or omissions.

22.3 The indemnification obligations of the Parties pursuant to this section shall survive the termination or expiration of this Agreement.

23. Contractor's Responsibility. All Garbage collected by Contractor shall become the sole responsibility of Contractor commencing from the time it is picked up, except Unacceptable Waste. Title to Unacceptable Waste shall remain with the generator at all times and shall not transfer to Contractor.

24. Unacceptable Waste. This Agreement does not require or authorize Contractor to provide service for collection or disposal of Unacceptable Waste. In the event that Contractor elects to do so, such service shall be separate from this Agreement.

25. Contractor to Make Examination. Contractor certifies that they have personally examined and investigated the proper method of doing the work and all conditions affecting the work to be done, labor, equipment and materials needed therefore, and the quantity of the work to be performed within the City of Clark Fork and has not relied upon any representations by the City. Contractor shall have no claim against City because of any of the estimates, statements, or interpretations made by any officer or agent of City. This Agreement is for the benefit of the Parties hereto and is not intended to inure to the benefit of any third party.

26. Load Restrictions. Contractor shall comply with all applicable state and local road load restrictions.

27. Workers. All workers employed by Contractor to perform services under this Agreement shall be competent and skilled in the performance of the work to which they may be assigned. Failure or delay in the performance of this Agreement due to Contractor's inability to obtain workers of the number and scope required shall constitute a default of the Agreement.

28. Fair Labor Practices. The Contractor shall observe all federal and state fair labor practices as the same may now exist or may hereafter be amended, including but not limited to, the Civil rights Act of 1964 and the Occupational Safety and Health Act (OSHA) of 1970, and equal opportunity employment practices in the employment of its personnel. The Contractor shall be responsible for the public conduct of all personnel when acting within the scope of their employment.

- 29. Contractor Name and Status.** Contractor shall not use a firm name including the name of the City or containing any words implying municipal ownership or that this Agreement constitutes a joint venture.
- 30. Holidays.** Contractor shall annually designate which holidays it will observe and provide in writing to the City Clerk the schedule to be worked if the holiday falls on a regular collection day.
- 31. Disposal Fees and Annual Adjustments.**
- 31.1 If the County initiates a Disposal Fee at the transfer station or the transfer station is changed due to circumstances beyond the control of Contractor, the City and Contractor shall renegotiate Rates. Subject to City Council approval, the Rates charged may be adjusted to reflect increases in Disposal Fees for Garbage.
- 31.2 With the exception of an increase in rates necessitated by increases in Disposal Fees and subject to the terms of Section 30.3 and 30.4 the Rates set forth on Exhibit B. shall not be subject to increase.
- 31.3 Annual Rate Adjustment. Commencing on May 1, 2025, and on the same date annually thereafter (each, an "Adjustment Date"), the Rates, as adjusted hereunder, shall be automatically increased by a percentage equal to the percent change in the average Consumer Price Index for Urban Consumers: Water and Sewer and Trash Collection Services ("CPI") (Series CUUR0000SEHG), as published by the United States Department of Labor, Bureau of Labor Statistics. The first adjustment of the Rates will be based on the change in CPI, as described above, of August of the current year published index compared to August of the prior year published index. Adjustments to the service Rates shall be made in units of one cent (\$0.01). Fractions less than one cent (\$0.01) shall not be considered when calculating CPI adjustments. Annual CPI adjustments shall never be negative. In the event the CPI index series decreases year-on-year, there shall be no CPI adjustment that year.
- 31.4 Extraordinary Adjustments. In addition to the annual adjustment provided by subsection 30.3 above, the Rates may, upon written request of Contractor, be further adjusted to fully capture increased expenses and lost revenue associated with performance of the Collection Services hereunder due to any one or more of the following causes:
- Uncontrollable Circumstance (see Exhibit A);
 - Changes in Applicable Law that is effective after the Effective Date of this Agreement;
 - Increase in surcharges, fees, assessments, or taxes levied by federal, state or local regulatory authorities or other governmental entities related to the Collection Services,
 - Changes in baseline assumptions, such as changes in volumes collected;
 - Any other extraordinary circumstances or causes or reasons that are not within the reasonable control of Company;

If Contractor requests a Rate adjustment pursuant to this Section 30.4, it shall prepare a Rate adjustment request setting forth its calculations of the increased costs/lost revenue and accompanying adjustment to the Rates necessary to offset such increased costs/lost revenue. The City may request documentation and data reasonably necessary to evaluate such request by Contractor, and may retain, at its own expense, an independent third party to audit and review such documentation and request. If such third party is retained, the City shall take reasonable steps, consistent with Applicable Law, to protect the confidential or proprietary nature of any data or information supplied by Contractor. The City shall consider all properly calculated Rate adjustments within ninety (90) days of Company's request and approved adjusted Rates shall be deemed to take effect the 1st of the month following City approval.

In addition, if the request is based upon any new or increased third party fees, taxes, assessments or charges, the City shall approve the Rate adjustment within such time period as necessary to ensure that such fees, taxes, assessments or charges are passed on to Customers by the date the same are effective.

31.5 **Alteration of Terms of Agreement.** Either Party hereto may initiate proceedings to negotiate a change in the terms of this Agreement by giving written notice of its intention to do so at least sixty (60) days prior to the date such Party desires to open such negotiations.

32. **Annexation.** If, during the life of this Agreement, additional territory added to the City through annexation, upon notice from City that an area has been annexed Contractor will make collections in such annexed area in accordance with all provisions of this Agreement and at the prices set forth herein. This clause shall not be effective if another service provider under contract with any such area(s) is currently servicing such area until the Contractor is legally authorized to provide Collection Services by the City.
33. **Failure To Perform.** Except for the failure to make payment when due, neither Party shall be in default for its failure to perform any duties imposed hereby, or delay in performance caused by an Uncontrollable Circumstance, and the affected Party shall be excused from performance during the occurrence of such events. For the purposes of this Agreement, "Uncontrollable Circumstance" is defined in Exhibit A. Should an Uncontrollable Circumstance occur, the non-performing Party shall notify the other Party in writing of the event giving rise to the non-performance or delay, and shall provide updates to the other Party concerning its status until such non-performance is cured. In the event that Contractor fails to perform its obligations under this Agreement and such failure is not due to an Uncontrollable Circumstance, the City may notify Contractor in writing detailing the nature thereof and if the Contractor does not correct such failure within ten (10) days of receipt of such notice, the City may revoke this Franchise forthwith. Notices required under this Section 31 shall be delivered to the non-performing Party pursuant to Section 6 herein.
34. **Attorneys' Fees.** In the event of any action or proceeding to enforce, interpret, construe or otherwise resolve a dispute between the parties arising from any term, condition or provision of the Agreement, the prevailing party in such action or proceeding shall be entitled to recover, in addition to all other relief, from the other party, reasonable attorneys' fees incurred by the prevailing party in connection with such action or proceeding, including but not limited to any appeal thereof.
35. **Entire Agreement.** This Agreement constitutes the entire agreement between City and Contractor, and there are no promises, conditions, terms, obligations, statements, or guarantees other than those contained herein. No modifications or amendments shall be valid unless in writing and fully executed by both parties.
36. **Severability.** In the event that any provision or portion thereof of this Agreement shall be found to be invalid or unenforceable, then such provision or portion thereof shall be reformed in accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of this Agreement shall not affect the validity or enforceability of any other provision or portion of the Agreement.
37. **Governing law.** This Agreement shall be construed in accordance with the law of the State of Idaho.
38. **Counterparts.** Signatures may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted electronically shall be deemed valid execution of this Contract and binding on the Parties.

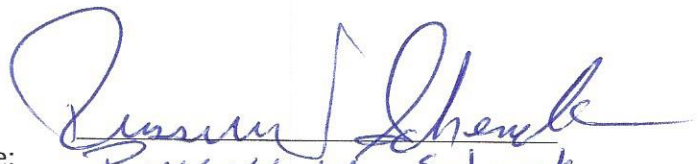
Signatures on the following page.

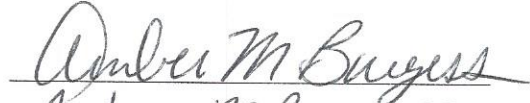
WITNESS THE EXECUTION HEREOF on the day and year first herein above written.

**WASTE MANAGEMENT OF
IDAHO, INC.**

By: _____
Name: Jason S. Rose
Its: President

CITY OF CLARK FORK

By: 
Name: Russell W. Schenk
Its: Mayor

Attested
By: 
Name: Amber M. Burgess
Its: City Clerk / Treasurer

Approved
as to
Form By: _____
Name: _____
Its: _____

WITNESS THE EXECUTION HEREOF on the day and year first herein above written.

WASTE MANAGEMENT OF
IDAHO, INC.

By: Jason S. Rose
Name: Jason S. Rose
Its: President

CITY OF CLARK FORK

By: Russell W. Schenk
Name: Russell W. Schenk
Its: Mayor

Attested

By: Amber M. Burgess
Name: Amber M. Burgess
Its: City Clerk / Treasurer

Approved

as to

Form By: _____

Name: _____

Its: _____

EXHIBIT A – DEFINITIONS

For the purposes of this Agreement the following terms shall have the following meanings:

- (a) **"Bin"** means a watertight metal or heavy plastic receptacle with a hinged plastic lid and a capacity of between one (1) and eight (8) cubic yards, designed or intended to be mechanically dumped into a packer type truck. Bins may also include compactors that are owned or leased by a Customer, contingent upon confirmation of compatibility from Contractor.
- (b) **"Collection Service(s)"** means the process by which Garbage is removed from residential or commercial Premises, transported to a transfer, or disposal facility, and subsequently disposed.
- (c) **"Container"** means a Bin, Cart or Roll-Off Container.
- (d) **"Curb or Curbside"** means the area within five (5) feet of the Public Street where regular Garbage collection occurs. If safe access is difficult or extraordinary circumstances preclude such a location, curbside shall be considered a placement suitable to the resident, convenient to the Contractor's equipment, and mutually agreed to by the City.
- (e) **"Cart"** means a watertight heavy plastic receptacle with a rated capacity of approximately thirty-five (35), sixty-four (64) or ninety-six (96) gallons, having a hinged, tight-fitting lid, and two (2) wheels.
- (f) **"Drive-in Service"** occurs when Contractor's vehicle travels onto a customer's private road or property to collect Garbage. In the event that a Pack-out Service request is a distance more than twenty-five feet (25'), then Drive-in Service will be required. Drive-in Service is subject to a service fee pursuant to Exhibit B.
- (g) An **"Extra"** occurs when Customer sets out for collection and Contractor collects extra Garbage bags beyond the Contractor-provided Cart or Bin (any size) and/or Christmas trees. Extras are subject to a service fee pursuant to Exhibit B. Extras exceeding sixty pounds (60 lbs.) are not serviceable by Contractor and will be tagged as overweight and not collected by Contractor.
- (h) **"Extra Yardage"** occurs when Customer sets out for collection and Contractor collects extra Garbage outside of a Commercial Bin or Roll-Off Container.
- (i) **"Garbage"** means all putrescible and non-putrescible wastes originating within the city, except Recyclable Materials, Unacceptable Waste, or Yard Debris.
- (j) **"Disposal Fee"** means the fee charged to the Contractor for the disposal of any Garbage.
- (k) **"Hazardous Waste"** means any/all wastes that are defined as hazardous wastes under Applicable Law, including the federal *Resource Conservation & Recovery Act, 42 U.S.C. §§ 6901 et seq.*, and comparable state law.
- (l) **"Lock Charge"** means Contractor must open a lock in order to provide service.
- (m) **"Overage"** is defined as Garbage exceeding the Container's intended capacity such that the lid is lifted (or would be lifted if lowered) or (ii) Garbage placed on top of or in the immediate vicinity of the Container, in bags or otherwise.
- (n) **"Overage Charge"** means an amount charged to Customers to compensate for expense incurred by Contractor arising from Overages.

- (o) **"Carry-Out "** occurs when Contractor walks onto Customer's private property or road to collect Garbage by hand, rather than using Contractor's automated lifter and picking up curbside. Carry-out Service shall not exceed twenty-five feet (25') distance from curb. Carry-out Service is subject to a service fee pursuant to Exhibit B.
- (p) **"Public Street"** means a public way used for public travel.
- (q) **"Rates"** means the fees to be charged by Contractor to Customers, and paid by Customers to Company, for the Collection Services and other services provided by Contractor and included on Exhibit "B" attached hereto, as such may be adjusted from time to time.
- (r) **"Residence"** means a living space individually rented, leased, or owned.
- (s) A **"Return Trip"** occurs when Contractor returns to collect outside normal collection schedule at the request of Customer.
- (t) **"Roll-Off Container"** means all metal container with ten (10) cubic yards or more capacity that is loaded onto a specialized collection vehicle. Roll-Off Containers may also include compactors that are owned or leased by a Customer, contingent upon confirmation of compatibility with Contractor vehicles and equipment.
- (u) **"Roll-out Charge"** means Contractor must move a Container to provide service.
- (v) **"Service Area"** means the municipal boundaries of the City both now and as they may be expanded by annexation during the life of the contract.
- (w) **"Single Family Residence"** means all single unit houses, duplexes, triplexes, fourplexes and mobile homes where service is billed to the individual customers.
- (x) **"Special Waste"** means those wastes which require special treatment or handling after it arrives at the disposal site. The term includes, but is not limited to, asbestos containing material, petroleum contaminated soils, low-level PCB containing material, low-level dioxin containing material and uncut tires.
- (y) **"Unacceptable Waste"** includes Hazardous Waste, Special Waste, waste tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous, regulated medical or hazardous waste, toxic substance, or material, as defined by, characterized, or listed under applicable federal, state, or local laws or regulations, any materials containing information protected by federal, state or local privacy and security laws or regulations (unless tendered to Contractor pursuant to a separate agreement), or any material the acceptance or handling of which would cause a violation of any applicable law or permits, damage to Contractor's equipment or facilities, or present a substantial endangerment to the health or safety of the public or Contractor's employees. Title to and liability for Unacceptable Waste shall remain with the generator at all times.
- (z) **"Uncontrollable Circumstance"** means an act of God, catastrophes, riots, wars, acts of terrorism, landslides, lightning, forest fires, storms, floods, typhoons, hurricanes, severe weather, freezing, earthquakes, volcanic eruptions, other natural disasters or the imminent threat of such natural disasters, pandemics or epidemics, industry-wide labor or equipment shortages, quarantines, civil disturbances, acts of the public enemy, blockades, public riots, labor unrest (e.g., strikes, lockouts, or other labor disturbances), acts of domestic or foreign governments, governmental order or regulation, or other similar or different contingency beyond the reasonable control of the non-performing Party.

EXHIBIT B – SERVICE RATE SCHEDULE

FRANCHISE FOR GARBAGE COLLECTION AND DISPOSAL BETWEEN THE CITY OF CLARK FORK AND WASTE MANAGEMENT OF IDAHO, INC.

RATES AND CHARGES Effective May 1, 2024

RESIDENTIAL RATES

DESCRIPTION	5/1/2024 AMOUNT
35 GALLON CART 1X MONTH	\$ 7.34
64 GALLON CART 1X MONTH	\$ 11.19
96 GALLON CART 1X MONTH	\$ 13.77
35 GALLON CART 1X WEEK	\$ 11.81
64 GALLON CART 1X WEEK	\$ 16.65
96 GALLON CART 1X WEEK	\$ 20.49
EXTRA BAG, BOX, OR CAN (32-GALLON EQUIVALENT)	\$ 1.97
EXTRA YARDAGE	\$ 8.94
DRIVE IN SERVICE	\$ 15.69
CARRYOUT 1 CART	\$ 4.68
CARRYOUT 2 CARTS	\$ 6.90
CART DELIVERY/ REDELIVERY FEE	\$ 16.88
RETURN TRIP	\$ 9.36
LOST/STOLEN REPLACEMENT CHARGE (PER CART)	\$ 78.00

COMMERCIAL RATES

DESCRIPTION	5/1/2024 AMOUNT
35 GALLON CART 1X WEEK	\$ 17.90
64 GALLON CART 1X WEEK	\$ 27.04
96 GALLON CART 1X WEEK	\$ 37.24
35 GALLON CART 1X MONTH	\$ 11.15
64 GALLON CART 1X MONTH	\$ 18.17
96 GALLON CART 1X MONTH	\$ 25.03
1 YARD CONTAINER 1X WEEK (EXISTING CUSTOMERS ONLY)	\$ 42.12
1.5 YARD CONTAINER 1X WEEK (EXISTING CUSTOMERS ONLY)	\$ 51.31
2 YARD CONTAINER 1X WEEK	\$ 61.09
3 YARD CONTAINER 1X WEEK	\$ 79.11
4 YARD CONTAINER 1X WEEK	\$ 97.46
6 YARD CONTAINER 1X WEEK	\$ 122.43
8 YARD CONTAINER 1X WEEK	\$ 147.21
1 YARD CONTAINER 1X MONTH (EXISTING CUSTOMERS ONLY)	\$ 23.94
1.5 YARD CONTAINER 1X MONTH (EXISTING CUSTOMERS ONLY)	\$ 29.00
2 YARD CONTAINER 1X MONTH	\$ 34.38

COMMERCIAL RATES

DESCRIPTION	5/1/2024 AMOUNT
3 YARD CONTAINER 1X MONTH	\$ 44.76
4 YARD CONTAINER 1X MONTH	\$ 54.98
6 YARD CONTAINER 1X MONTH	\$ 69.20
8 YARD CONTAINER 1X MONTH	\$ 84.37
1 YARD CONTAINER RENT (EXISTING CUSTOMERS ONLY)	\$ 4.28
1.5 YARD CONTAINER RENT (EXISTING CUSTOMERS ONLY)	\$ 6.38
2 YARD CONTAINER RENT	\$ 8.49
3 YARD CONTAINER RENT	\$ 12.77
4 YARD CONTAINER RENT	\$ 17.04
6 YARD CONTAINER RENT	\$ 25.56
8 YARD CONTAINER RENT	\$ 34.09
3 YARD COMPACTOR 1X WEEK	\$ 237.39
4 YARD COMPACTOR 1X WEEK	\$ 316.52
5 YARD COMPACTOR 1X WEEK	\$ 395.65
1 YARD WILL CALL (EXISTING CUSTOMERS ONLY)	\$ 25.20
1.5 YARD WILL CALL (EXISTING CUSTOMERS ONLY)	\$ 30.52
2 YARD WILL CALL	\$ 36.19
3 YARD WILL CALL	\$ 47.11
4 YARD WILL CALL	\$ 57.88
6 YARD WILL CALL	\$ 72.84
8 YARD WILL CALL	\$ 88.81
EXTRA BAG, BOX, OR CAN (32-GALLON EQUIVALENT)	\$ 2.17
EXTRA YARDAGE	\$ 8.94
GATE CHARGE	\$ 19.73
LOCK CHARGES	\$ 33.75
CART DELIVERY/REDELIVERY FEE	\$ 16.88
CONTAINER DELIVERY CHARGE	\$ 67.41
RETURN TRIP	\$ 16.03
ROLL OUT CHARGE	\$ 21.93
CLEANING/SANITIZING (EACH)	\$ 54.69
CONNECT/ DISCONNECT CHARGE	\$ 36.40
STAND-BY TIME (PER MINUTE)	\$ 2.64

Extra Lift: Additional service on scheduled pickup day while driver is on site. Rate is calculated by dividing monthly service rate by number of pickups in a month (4.333).

Extra Service: Additional service on a non-scheduled pickup day requiring a specially dispatched driver. Rate is calculated by dividing monthly service rate by number of pickups in a month (4.333) plus return trip fee.

ROLLOFF RATES

DESCRIPTION	5/1/2024 AMOUNT
10 YARD HAUL	\$ 229.13
27 YARD HAUL	\$ 229.13
30 YARD HAUL	\$ 254.55
40 YARD HAUL	\$ 339.41
10 YARD RENT	\$ 151.62
27 YARD RENT	\$ 151.62
30 YARD RENT	\$ 151.62
40 YARD RENT	\$ 151.62

ROLLOFF RATES

DESCRIPTION	5/1/2024 AMOUNT
10 YARD DELIVERY	\$ 128.35
27 YARD DELIVERY	\$ 128.35
30 YARD DELIVERY	\$ 128.35
40 YARD DELIVERY	\$ 128.35
15 YARD COMPACTOR HAUL	\$ 303.41
25 YARD COMPACTOR HAUL	\$ 303.41
30 YARD COMPACTOR HAUL	\$ 303.41
40 YARD COMPACTOR HAUL	\$ 303.41
CLEANING/SANITIZING (EACH)	\$ 158.50
CONNECT/ DISCONNECT CHARGE	\$ 36.40
STAND-BY TIME (PER MINUTE)	\$ 2.64
TRUCK & DRIVER (PER HOUR)	\$ 158.50