

ORDINANCE NO. 21-1228

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO GRANTING A FRANCHISE FOR SOLID WASTE COLLECTION AND DISPOSAL TO OBRAS, LLC; PROVIDING DEFINITIONS AND AUTHORITY; APPROVING A FRANCHISE AGREEMENT; PROVIDING FOR ACCEPTANCE BY FRANCHISEE; PROVIDING SPECIFIC AND GENERAL CONDITIONS; ESTABLISHING LIMITATIONS; PROVIDING FOR FORFEITURE; PROVIDING A SAVINGS CLAUSE; PROVIDING THAT ALL ORDINANCES AND RESOLUTIONS IN CONFLICT ARE REPEALED AND RESCINDED; AND PROVIDING FOR AN EFFECTIVE DATE.

- A. The City has the powers to promote the general welfare (I.C. §50-302), preserve the public health (I.C. §50-304), and provide for solid waste disposal by franchise (I.C. §50-344).
- B. Ketchum Municipal Code Title 8, Chapter 4 provides for and regulates solid waste collection and disposal within the City, including service by franchise agreement.
- C. For the past ten years, Clear Creek has operated and provided solid waste collection and disposal services within the City pursuant to Ordinance No. 1086 and accompanying Waste Collection Services Agreement, dated May 2, 2011.
- D. The parties desire to continue the franchise and update the terms and provision of solid waste collection and disposal services.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KETCHUM, IDAHO:

Section 1 - Definitions: All terms herein this ordinance and accompanying agreement shall be defined as those definitions which are presently codified in the Ketchum Municipal Code, which definitions are incorporated herein by reference.

Section 2 - Authority for Franchise: This Franchise Ordinance is an exercise of the City's authority to grant a franchise pursuant to Idaho Code §50-344, §50-329 and pursuant to its authority and regulation as is set forth in Ketchum Municipal Code Title 8, Chapter 4.

Section 3 - Grant and Term of Franchise: The City of Ketchum does hereby grant to Obras, LLC, dba Clear Creek Disposal, a franchise of scope and description as set forth under the Franchise Agreement attached as Exhibit A and hereby incorporated.

Section 4 - Acceptance: Obras, LLC, shall file a written acceptance of the franchise with the City Clerk within ten days after the date of this ordinance. This franchise shall go into effect only when the acceptance has been filed and when evidence of general comprehensive liability insurance provided shall have been filed and approved.

Section 5 - Specific Conditions: The specific conditions of this franchise are set forth in that certain Franchise Agreement as attached as Exhibit A.

Section 6- General Conditions: The City of Ketchum reserves the right to enforce reasonable regulations as prescribed by Ketchum Municipal Code Title 8, Chapter 4 over the activities and the grant of this franchise.

Section 7 - Limitation on Franchise: No privilege or exemption is granted or conferred by this franchise except those specifically prescribed in this ordinance. Any privilege claimed under the franchise in any street, alley, or other public place shall be subordinate to any lawful occupancy of any such street, alley, or other public place by grantor or by any other public agency, and to prior lawful occupancy of any such street, alley, or other public place by any other entity or person.

Section 8 - Forfeiture: The franchise may be forfeited, at the option of the City of Ketchum, upon failure or refusal by Franchisee to observe the terms and conditions set forth in this ordinance or prescribed in the Franchise Agreement. Forfeiture may be exercised by written notice to Franchisee of failure to observe the terms and conditions of this ordinance, followed by grantee's refusal to eliminate or correct the failure or violation within 30 days. In the event of any failure of violation, the City may sue in its own name in the manner provided by law for the forfeiture of the franchise without the necessity of resorting to procedures in quo warranto. The exercise of the remedy of forfeiture shall not preclude exercise of any other right or remedy given to grantor by law, whether exercised concurrently or subsequently.

Section 9 - Effect of Invalidity: The franchise is granted pursuant to the laws of the State of Idaho relating to the granting of such rights and privileges by the City of Ketchum. If any article, section, sentence, clause, or phrase of this ordinance is for any reason held illegal, invalid or unconstitutional, the invalidity shall not affect the validity of the ordinance or any of the remaining portions. The invalidity of any portion of this ordinance shall not abate, reduce, or otherwise affect any consideration or other obligation required of grantee.

Section 12: All ordinances, resolutions, orders or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.

Section 13: This ordinance, in accordance with the provisions of Idaho Code § 50-329, was approved for the first reading more than 30 days prior to its approval, been published in the *Western* official newspaper on the 18th day of Nov., 2021, and shall take effect after its passage and publication.

PASSED BY the CITY COUNCIL of Ketchum, Idaho, on this 18th day of Nov. 2021.

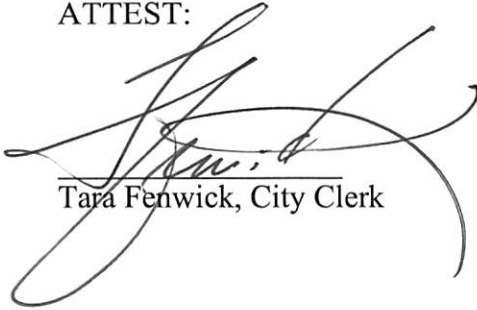
APPROVED BY the Mayor of the City of Ketchum, Idaho, this 18th day of Nov. 2021.

APPROVED:



Neil Bradshaw
Mayor

ATTEST:



Tara Fenwick, City Clerk